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Railways 19

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GENERAL RAILWAY ACTS.

A COLLECTION

OF THE

PUBLIC GENERAL ACTS

FOR THE

Regulation of Railways:

INCLUDING

**THE COMPANIES, LANDS, AND RAILWAYS CLAUSES
CONSOLIDATION ACTS, COMPLETE.**

1830—84.

WITH A COPIOUS INDEX.

EDITED BY JAMES BIGG, ESQ.

FOURTEENTH EDITION.

AS AMENDED TO CLOSE OF SESS. 1884.



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P R E F A C E.

THIS collection of General Railway Acts was first published in the year 1845, and during the forty years that have since elapsed it has passed through several editions, each containing the enactments then in force relating to Railways. The volume now published contains the general Statutes for the Regulation of Railways in England and Ireland in force at the close of 47 & 48 Vict., session 1884, and includes the Companies, Lands, and Railways Clauses Consolidation Acts, with all the amending enactments complete.

The thirteenth edition of this work was published in February, 1875. If the Statutes in whole or in part, affecting Railways in England and Ireland, passed since that date had been annually incorporated in the volume, it would have necessitated the publication of new editions which would have superseded the thirteenth edition, and the purchase of a copy of each edition would have been necessary. The importance of the enactments affecting railways which have since received the sanction of Parliament renders it necessary that a new edition of the volume should now be issued.

Several Statutes have been partially repealed or amended, and a reference to the "Register of Amendments" at page xi will shew the particulars thereof; and in the body of the volume, such repealed or amended provisions are printed in *italic type* with marginal references to the Amending Acts, in order that they may be clearly distinguished from enactments which are still part of the existing law.

This edition has been revised throughout. The object of the Editor has been to render the work a complete consolidation of the General Enactments relating to Railways in England and Ireland ; and in order to facilitate ready reference to their provisions, the Index has been recompiled and extended.

JAMES BIGG.

March, 1885.

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- 23 & 24 Vict. c. 41. *Railway Cheap Trains*. Repealed by 38 & 39 Vict. c. 66, s. 1.
- 23 & 24 Vict. c. 97. *Railways (Ireland) Amendment*. Amended by 27 & 28 Vict. c. 71. Amended as to the trial of traverses, 31 & 32 Vict. c. 70.
- 24 & 25 Vict. c. 97. *Malicious Injuries to Property*. } Amended (by
24 & 25 Vict. c. 100. *Offences against the person*. } extending minimum period of penal servitude from three years to five years) by 27 & 28 Vict. c. 47 s. 2.
- 26 & 27 Vict. c. 33. *Inland Revenue*. Sect. 14 repealed by 46 & 47 Vict. c. 34, s. 10.
- 26 & 27 Vict. c. 92. *Railway Clauses*. Applied by 36 & 37 Vict. c. 48.
- 26 & 27 Vict. c. 112. *Telegraphs*. Amended by 29 & 30 Vict. c. 3. Sect. 32. Amended by 41 & 42 Vict. c. 76, s. 3.
- 26 & 27 Vict. c. 118. *Companies' Clauses*. Sects. 21, 22, amended by 30 & 31 Vict. c. 127, ss. 24, 27.—Amended by 32 & 33 Vict. c. 48.
- 27 & 28 Vict. c. 53. *Summary Procedure*. Applied by 36 & 37 Vict. c. 76, s. 2.
- 27 & 28 Vict. c. 64. *Public House Closing*. Repealed by 35 & 36 Vict. c. 94.
- 27 & 28 Vict. c. 71. *Railways (Ireland)*. Amended as to the trial of traverses, 31 & 32 Vict. c. 70.
- 27 & 28 Vict. c. 120. *Railway Companies' Powers*. Sect. 3, extended by 31 & 32 Vict. c. 119, s. 38.—Amended by 33 & 34 Vict. c. 19.
- 27 & 28 Vict. c. 121. *Railways' Construction Facilities*. Amended and in part repealed, 32 & 33 Vict. c. 19, ss. 2, 5, 6.
- 29 & 30 Vict. c. 2. *Cattle Diseases' Prevention*. Amended by 30 & 31 Vict. c. 125, ss. 23, 48.—Consolidated by 32 & 33 Vict. c. 70.
- 29 & 30 Vict. c. 28. *Labouring Classes' Dwelling-Houses*. Amended by 30 & 31 Vict. c. 28., ss. 2, 3.
- 29 & 30 Vict. c. 44. *Labouring Classes' Lodging-Houses and Dwellings (Ireland)*. Amended by 30 & 31 Vict. c. 28, ss. 2, 3.
- 29 & 30 Vict. c. 76. *Public Offices' Fees*. Applied by 36 & 37 Vict. c. 48, s. 33.
- 29 & 30 Vict. c. 95. *Railway Companies (Ireland) Temporary Advances*. Period extended for repayment of advances, 30 & 31 Vict. c. 108, s. 2; 31 & 32 Vict., c. 94, s. 2.—Part of Sect. 4 repealed by 38 & 39 Vict. c. 66, s. 1.
- 29 & 30 Vict. c. 108. *Railway Companies' Securities*. Part of Sect. 4 repealed by 38 & 39 Vict. c. 66, s. 1.

- 30 & 31 Vict. c. 127. *Railway Companies*. Sect. 4 as to rolling stock and plant made perpetual by 38 & 39 Vict. c. 31, s. 1.—Sect. 37 repealed by 38 & 39 Vict. c. 66, s. 1.
- 30 & 31 Vict. c. 138. *Railway Companies (Ireland) Temporary Advances*. Repealed by 38 & 39 Vict. c. 66, s. 1.
- 31 & 32 Vict. c. 18. *Railways (Extension of Time)*. Repealed by 38 & 39 Vict. c. 66, s. 1.
- 31 & 32 Vict. c. 110. *Telegraph*. Sect. 9, applied by 41 & 42 Vict. c. 76, s. 6.—Sect. 24 repealed by 38 & 39 Vict. c. 66, s. 1.
- 31 & 32 Vict. c. 119. *Regulation of Railways*. Sect. 16, applied by 36 & 37 Vict. c. 48, s. 6.—Sects. 30, 31, & 32 applied by 41 & 42 Vict. c. 76, ss. 4 & 5. Part of Sect. 37, Sects. 46, 47, and second schedule repealed by 38 & 39 Vict. c. 66, s. 1.
- 32 & 33 Vict. c. 6. *Railway Companies' Meetings*. Repealed by 46 & 47 Vict. c. 39, s. 1.
- 32 & 33 Vict. c. 18. *Lands Clauses Consolidation Act Amendment*. Sect. 2 repealed by 46 & 47 Vict. c. 39, s. 1.
- 32 & 33 Vict. c. 70. *Contagious Diseases (Animals)*. Sects. 6, 30, 57, 62, 64, & 107, repealed by 41 & 42 Vict. c. 74 sch.
- 32 & 33 Vict. c. 114. *Railways' Abandonment*. Sect. 10 repealed by 46 & 47 Vict. c. 39, s. 1.
- 33 & 34 Vict. c. 19. *Railways (Powers and Construction)*. Sect. 2 and part of ss. 4 & 5 repealed by 46 & 47 Vict. c. 39, s. 1.
- 33 & 34 Vict. c. 36. *Cattle Disease (Ireland)*. Sects. 3 & 4 repealed by 41 & 42 Vict. c. 74, sch.
- 34 & 35 Vict. c. 78. *Regulation of Railways*. Part of Sects. 13 & 14 also Sect. 17, repealed by 46 & 47 Vict. c. 39, s. 1.
- 35 & 36 Vict. c. 18. *Board of Trade Inquiries*. Repealed by 37 & 38 Vict. c. 40, s. 5.
- 35 & 36 Vict. c. 50. *Railway Rolling Stock (Distraint)*. Part of Sect. 6 repealed by 47 & 48 Vict. c. 43, s. 4.
- 36 & 37 Vict. c. 48. *Railway and Canal Traffic*. Amended by 37 & 38 Vict. c. 40.—Sect. 33 repealed by 46 & 47 Vict. c. 39, s. 1.
- 37 & 38 Vict. c. 40. *Board of Trade, Arbitrations, &c.* Sect. 5 repealed by 46 & 47 Vict. c. 39, s. 1.
- 38 & 39 Vict. c. 31. *Railway Companies*. Repealed by 46 & 47 Vict. c. 39, s. 1.
- 41 & 42 Vict. c. 74. *Contagious Diseases (Animals)*. Sects. 64 & 66 amended by 47 & 48 Vict. c. 43, s. 4.
- 41 & 42 Vict. c. 76. *Telegraph*. In Sect. 4, 32 & 33 Vict. c. 18, s. 1, substituted for 31 & 32 Vict. c. 119, s. 33, by 47 & 48 Vict. c. 76, s. 17.



PUBLIC GENERAL ACTS

RELATING TO

RAILWAYS.

1 WILLIAM IV., cap. 68.

An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof. [23d July, 1830.]

WHEREAS by reason of the frequent practice of bankers [Amended by 28 & 29 waggons, vans, and other public conveyances by land for Vict.c. 94.] hire, parcels and packages containing money, bills, notes, jewellery, and other articles of great value in small compass, much valuable property is rendered liable to depredation, and the responsibility of mail contractors, stage coach proprietors, and common carriers for hire is greatly increased: and whereas through the frequent omission by persons sending such parcels and packages to notify the value and nature of the contents thereof, so as to enable such mail contractors, stage coach proprietors, and other common carriers, by due diligence, to protect themselves against losses arising from their legal responsibility, and the difficulty of fixing parties with knowledge of notices published by such mail contractors, stage coach proprietors, and other common carriers, with the intent to limit such responsibility, they have become exposed to great and unavoidable risks, and have thereby sustained heavy losses.

1. Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act no mail contractor, stage coach proprietor, or other common carrier by land for hire shall be liable for the loss of or

loss of certain goods above the value of 10*l.*, unless delivered as such, and increased charge accepted.

injury to any article or articles or property of the descriptions following; (that is to say,) gold or silver coin of this realm or of any foreign state, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, notes of the governor and company of the banks of England, Scotland, and Ireland respectively, or of any other bank in Great Britain or Ireland, orders, notes, or securities for payment of money, English or foreign, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, furs, or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery thereof at the office, warehouse, or receiving house of such mail contractor, stage coach proprietor, or other common carrier, or to his, her, or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

When any parcel shall be so delivered an increased rate of charge may be demanded. Notice of the same to be affixed in offices or warehouses.

2. And be it further enacted, that when any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible character in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be bound by such

notice, without further proof of the same having come to their knowledge.

3. Provided always, and be it further enacted, that Carriers when the value shall have been so declared, and the increased rate of charge paid, or an engagement to pay the receipts same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging the same to have been insured, which receipt shall not be liable to any stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, stage coach proprietor, or other common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this act, but shall be liable and responsible as at the common law, and be liable to refund the increased rate of charge.

4. Provided always, and be it enacted, that from and after the first day of September now next ensuing no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall from and after the said first day of September be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

5. And be it further enacted, that for the purposes of this act every office, warehouse, or receiving house which shall be used or appointed by any mail contractor or stage coach proprietor, or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed and taken to be the receiving house, warehouse, or office of such mail contractor, stage coach proprietor, or other common carrier; and that any one or more of such mail contractors, stage coach proprietors, or common carrier shall be liable to be sued by him, her, or their name or names only; and that no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want

of joining any co-proprietor or co-partner in such mail, stage coach, or other public conveyance by land for hire as aforesaid.

Act not to
affect con-
tracts.

6. Provided always, and be it further enacted, that nothing in this act contained shall extend or be construed to annul or in anywise affect any special contract between such mail contractor, stage coach proprietor, or common carrier, and any other parties, for the conveyance of goods and merchandises.

Parties en-
titled to
damages
may also
recover
extra
charges.

7. Provided also, and be it further enacted, that where any parcel or package shall have been delivered at any such office, and the value and contents declared as aforesaid, and the increased rate of charges been paid, and such parcels or packages shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

Act not to
protect
felonious
acts.

8. Provided also, and be it further enacted, that nothing in this act shall be deemed to protect any mail contractor, stage coach proprietor, or other common carrier for hire from liability to answer for loss or injury to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

Coach pro-
prietors
and carriers
liable only
to such
damages as
are proved.

9. Provided also, and be it further enacted, that such mail contractors, stage coach proprietors, or other common carriers for hire shall not be concluded as to the value of any such parcel or package by the value so declared as aforesaid, but that he or they shall in all cases be entitled to require, from the party suing in respect of any loss or injury, proof of the actual value of the contents by the ordinary legal evidence, and that the mail contractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

Money may
be paid into
court in all
actions for
loss of
goods.

10. And be it further enacted, that in all actions to be brought against any such mail contractor, stage coach proprietor, or other common carrier as aforesaid, for the loss of or injury to any goods delivered to be carried, whether the value of such goods shall have been declared or not, it shall be lawful for the defendant or defendants to pay money into court in the same manner and with

the same effect as money may be paid into court in any other action.

11. And be it further enacted, that this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded. Public act.

1 VICT. CAP. 83.

An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament. [17th July, 1837.]

WHEREAS the Houses of Parliament are in the habit of requiring that, previous to the introduction of any bill into Parliament for making certain bridges, turnpike roads, cuts, canals, reservoirs, aqueducts, waterworks, navigations, tunnels, archways, railways, piers, ports, harbours, ferries, docks and other works, to be made under the authority of Parliament, certain maps or plans and sections, and books and writings, or extracts or copies of or from certain maps, plans or sections, books and writings, shall be deposited in the office of the clerk of the peace for every county, riding or division in England or Ireland, or in the office of the sheriff clerk of every county in Scotland, in which such work is proposed to be made, and also with the parish clerk in every parish in England, the schoolmaster of every parish of Scotland, or in royal burghs with the town clerk, and the postmaster of the post town in or nearest to every parish in Ireland, in which such work is intended to be made, and with other persons; and whereas it is expedient that such maps, plans, sections, books, writings, and copies or extracts of and from the same, should be received by the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters and other persons, and should remain in their custody for the purposes hereinafter mentioned— Preamble.

1. Be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that whenever either of the houses of Parliament shall, by its standing orders, already made or hereafter to be made, require that any such maps, plans, sections, books or writings, or extracts or copies of the same, or any of them, shall be deposited as aforesaid, Clerks of the peace, &c. to receive the documents herein mentioned, and retain them for the purpose.

poses directed by the standing orders of the houses of parliament.

Clerks of the peace, &c. to permit such documents to be inspected or copied by persons interested.

Clerks of the peace, &c. for every omission to comply with the provisions of this act, liable to the penalty of 5*l.*, to be recovered in a summary way.

such maps, plans, sections, books, writings, copies and extracts shall be received by and shall remain with the clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters and other persons with whom the same shall be directed by such standing orders to be deposited, and they are hereby respectively directed to receive and to retain the custody of all such documents and writings so directed to be deposited with them respectively, in the manner and for the purposes and under the rules and regulations concerning the same respectively directed by such standing orders, and shall make such memorials and indorsements on and give such acknowledgments and receipts in respect of the same respectively as shall be thereby directed.

2. And be it further enacted, that all persons interested shall have liberty to, and the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks and postmasters, and every of them, are and is hereby required, at all reasonable hours of the day, to permit all persons interested to inspect, during a reasonable time, and make extracts from or copies of the said maps, plans, sections, books, writings, extracts and copies of or from the same, so deposited with them respectively, on payment by each person to the clerk of the peace, sheriff clerk, clerk of the parish, schoolmaster, town clerk or postmaster having the custody of any such map, plan, section, book, writing, extract or copy, one shilling for every such inspection, and the further sum of one shilling for every hour during which such inspection shall continue after the first hour, and after the rate of sixpence for every one hundred words copied therefrom.

3. And be it further enacted, that in case any clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster or other person, shall in any matter or thing refuse or neglect to comply with any of the provisions hereinbefore contained, every clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster or other person, shall for every such offence forfeit and pay any sum not exceeding the sum of five pounds; and every such penalty shall, upon proof of the offence before any justice of the peace for the county within which such offence shall be committed, or by the confession of the party offending, or by the oath of any credible witness, be levied and recovered, together with the costs of the proceedings for the recovery thereof, by distress and sale of the goods and effects of the party offending, by warrant under the hand of such justice, which warrant such justice is hereby empowered to grant, and shall be paid to the

person or persons making such complaint; and it shall be lawful for any such justice of the peace to whom any complaint shall be made of any offence committed against this act, to summon the party complained of before him, and on such summons to hear and determine the matter of such complaint in a summary way, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty of forfeiture incurred, and to proceed to recover the same, although no information in writing or in print shall have been exhibited or taken by or before such justice; and all such proceedings by summons without information shall be as good, valid and effectual, to all intents and purposes, as if an information in writing had been exhibited.

1 & 2 VICT. CAP. 80.

An Act for the Payment of Constables for keeping the Peace near Public Works.

[10th August, 1838.]

WHEREAS great mischiefs have arisen by the outrageous and unlawful behaviour of labourers and others employed on railroads, canals, and other public works, by reason whereof the appointment of special constables is often necessary for keeping the peace, and for the protection of the inhabitants and security of the property in the neighbourhood of such public works, whereby great expenses have been cast upon the public rates of counties and other districts chargeable with such expenses:—

Preamble.

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that after the passing of this act, whenever any special constables shall be appointed under the authority of an act passed in the second year of the reign of his late majesty, intituled "An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace," or under the authority of an act passed in the sixth year of the reign of his late Majesty, intituled "An Act for enlarging the Powers of magistrates in the Appointment of Special Constables," and it shall be made to appear to any two or more justices of the peace of any county, riding, or division having a separate commission of the peace, or of any liberty, franchise, city, town, or borough, in England or Wales, on the oath of three or more credi-

Whenever the appointment of special constables has been occasioned by the behaviour of persons employed upon railway works, the expenses thereof shall be paid by the companies carrying on such works.

ble witnesses, that the appointment of such special constables has been occasioned by the behaviour, or by reasonable apprehension of the behaviour, of the persons employed upon any railway, canal, or other public work made or carried on under the authority of parliament within the district or division for which such justices usually act, it shall be lawful for such justices as aforesaid, at any time not exceeding one calendar month next after such appointment, to make orders from time to time upon the treasurer or other officer who shall have the control or custody of the funds of any company making or carrying on such railroad, canal, or other public work, for the payment of such reasonable allowances for their trouble, loss of time, and expenses to such special constables who shall have so served or be then serving as to the said justices shall seem proper; and a copy of every such order shall be sent by the justices to one of her Majesty's principal secretaries of state, and such order, if allowed by the secretary of state, shall be binding on such company, and on every such treasurer and officer thereof: provided always, that nothing herein contained shall empower any such justices to order any allowance for any such special constables at the rate of more than five shillings daily to be paid to each special constable employed for the purposes aforesaid.

**Secretary
of state
may reduce
excessive
orders.**

2. And be it enacted, that if it shall appear to the secretary of state that there was no need for the appointment of such special constables, or that a greater number of special constables was appointed than was needed by reason of the behaviour, or reasonable apprehension of the behaviour, of the persons employed on such railroad, canal, or other public work as aforesaid, the secretary of state shall have power to disallow any such order, or to reduce the amount ordered to be paid by any such order, in such manner as to him shall seem just according to the circumstances of each case; and in such case the order shall be of no force, or shall be of force for such reduced amount only, as the case may be; and the whole of such expenses in case the whole shall be disallowed, or so much thereof as shall exceed such reduced amount if a part shall be allowed, shall be defrayed out of the public rates of such county, riding, or division, liberty, franchise, city, town, or borough, as if this act had not been made.

**Amount
ordered
and allow-**

3. And be it enacted, that in all cases where such treasurer or other officer as aforesaid shall refuse or neglect, during three weeks next after demand thereof, to

pay such sum of money as shall have been ordered by such justices, and allowed by the secretary of state as aforesaid, it shall be lawful for such justices to cause the same to be levied by distress upon the goods and chattels belonging to such company.

4. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of Parliament.

Act may be amended or repealed.

1 & 2 VICT. CAP. 98.

An Act to provide for the Conveyance of the Mails by Railways.

[14th August, 1838.]

WHEREAS it is expedient that provision should be made by law for the conveyance of the mails by railways at a reasonable rate of charge to the public:

Preamble.

1. Be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases of railways already made or in progress, or to be hereafter made within the United Kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the Postmaster-General, by notice in writing under his hand delivered to the company of proprietors of any such railway, to require that the mails or post letter bags shall, from and after the day to be named in any such notice, (being not less than twenty-eight days from the delivery thereof,) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages, or by special trains, as need may be, at such hours or times in the day or night as the Postmaster-General shall direct, together with the guards appointed and employed by the Postmaster-General in charge thereof, and any other officers of the post-office; and thereupon the said company shall, from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter bags to the satisfaction of the Postmaster-General, and receive, take up, carry, and convey by such ordinary or special trains of carriages or otherwise, as need may be, all such mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the post-office, and also receive, take up, carry,

Conveyance of Mails.

Postmaster General

may require company to convey the mails on their railway.

See 7 & 8 Vict. c. 85, s. 11. See 31 & 32 Vict. c. 119, ss. 36, 37.

By the Post Office Act, 10 & 11 Vict. c. 85, s. 16, power is given to send mails without a guard.

Conveyance of Mails. and convey, in and upon the carriages carrying such mails or post letter bags, the guards in charge thereof, and any other officers of the post-office, and shall receive, take up, deliver, and leave such mails or post letter bags, guards, and officers at such places in the line of such railway, on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, and times of arrival, as the Postmaster-General shall in that behalf from time to time order or direct:

Amended by the 7 & 8 Vict. c. 85, s. 11. *Provided always, that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains; but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months previous notice shall be given to the Postmaster-General of any such intended alteration.*

Carriages to be exclusively appropriated. 2. And be it enacted, That it shall be lawful for the Postmaster-General (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter bags shall be exclusively appropriated for the purpose of carrying the mails.

Separate carriages for sorting letters, to be provided by the company. 3. And be it enacted, That the company of proprietors of any such railway shall, on being required so to do by the Postmaster-General, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the Postmaster-General, or such person as he shall nominate in that behalf, shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway, at such hours or times, and subject to all such reasonable regulations as aforesaid, as the Postmaster-General shall in that behalf order or direct; and such company of proprietors shall receive, take up, carry, and convey in any such last-mentioned carriage or carriages all such post letter bags and officers of the post-office as the Postmaster-General shall reasonably require, and shall deliver and leave any post letter bags and officers of the post-office at such places on the line of the railway as the Postmaster-General shall in that behalf from time to time reasonably order and direct.

Mail coaches and carts to be conveyed on railway. 4. And be it enacted, That in case the Postmaster-General shall at any time be desirous of sending by any such railway any of her Majesty's mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post-office therein, instead of sending the said mails or

post letter bags, guards, and officers of the post-office by carriages to be provided by such railway company as aforesaid, then and in any such case such railway company shall, at the request of the Postmaster-General, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post-office therein, to be conveyed by the usual or proper trucks or frames on their said railway, subject to such regulations and restrictions of the Postmaster-General as hereinbefore mentioned.

5. And be it enacted, That for the greater security of the mails or post letter bags so to be carried or conveyed by railways, the company of proprietors of such respective railways along which such mails or post letter bags, mail coaches, or carts and carriages for sorting letters, shall be so required by the Postmaster-General to be conveyed, and their respective officers, servants, and agents, shall obey, observe, and perform all such reasonable regulations respecting the conveyance, delivering, and leaving of such mails and post letter bags, guards and officers of the post-office, mail coaches, or carts and carriages, on any such railways, or on the line thereof, as the Postmaster-General, or such officer of the post-office as he shall nominate in that behalf, shall in his discretion from time to time give or make: Provided always, that it shall not be lawful for any officer or servant of the post-office to interfere with or give orders to the engineer or other person having the charge of any engine upon any railway along which mails or post letter bags shall be conveyed; but if any cause of complaint shall arise, the same shall be stated to the conductor or other officer of the railway company having the charge of the train, or to the chief officer at any station upon the railway; and in case of any default or neglect on the part of any officers or servants of the railway company to comply with any of the regulations of the Postmaster-General or other officer of the post-office so to be nominated as aforesaid, the railway company shall be wholly responsible for the same.

Regulations of Postmaster-General, to be observed by company.

Officer of post-office not to interfere with person having charge of engine.

6. And be it enacted, That every company of proprietors of any railway along which such mails or post letter bags, mail coaches, carts, or carriages shall be so required by the Postmaster-General to be conveyed, shall be entitled to such reasonable remuneration to be paid by the Postmaster-General to any such company of proprietors for the conveyance of such mails, post letter bags, mail guards, and other officers of the post-office, mail coaches, carts, and carriages, in manner required by such Postmaster-General, or by such officer of the post-office as he shall in

Remuneration to company for conveyance of mails.

Conveyance of Mails. that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster-General and such company of proprietors, or in case of difference of opinion between them, then as shall be determined by arbitration as hereinafter provided, but so that the services which may be required by the Postmaster-General, or by such officer of the post-office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors, be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said Postmaster-General and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

Agreements as to remuneration, &c., to be altered in case of addition to, or discontinuance of, any part of services of company. 7. And be it enacted, That notwithstanding any agreement entered into between the Postmaster-General and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster-General, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the Postmaster-General and such company, regulating the future amount of remuneration to be paid by the Postmaster-General to such company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as hereinbefore is mentioned and hereinafter provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the Postmaster-General to be forwarded for the conveyance of the mails, but so that nevertheless such increased or diminished services shall not be suspended, postponed, or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the Postmaster-General and such company of proprietors, or by reason of the award on any reference to

arbitration to determine the amount of such increased or diminished remuneration not having been then made.

*Conveyance
of Mails.*

8. And be it enacted, That it shall be lawful for the Postmaster-General and he is hereby authorized, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under his hand, six calendar months' previous notice that such services or any part thereof shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

Postmaster
General
may termi-
nate service
of company
on notice.

9. And be it enacted, That it shall be lawful for the Postmaster-General at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under his hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: Provided nevertheless, that in case the Postmaster-General shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the Postmaster-General of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the Postmaster-General, or the breach by such company of proprietors of any of their engagements with the Postmaster-General, then and in any such case the Postmaster-General shall make to such company a full and fair compensation for all loss thereby occasioned, the amount whereof in case the parties differ about the same shall be ascertained by arbitration as hereinafter mentioned.

Postmaster
General
may termi-
nate ser-
vices of
company
without
previous
notice, but
if without
cause,
compensa-
tion to be
made to
company.

10. And be it enacted, That on all carriages to be provided for the service of the post-office on any such railway, there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the post-office shall not form an objection to such carriage running on any railway, anything to the contrary notwithstanding.

Royal arms
to be paint-
ed on car-
riages pro-
vided for
the service
of the post-
office.

11. And be it enacted, That it shall not be competent or lawful to or for the company of proprietors of any railway to make any bye-laws, orders, rules, or regulations which shall militate against or be contrary or re-

Bye-laws of
company
not to be re-
pugnant to

Conveyance of Mails. repugnant to any of the enactments herein contained; and that if any company of proprietors shall make or shall have made any such bye-laws, orders, rules, or regulations, either prior or subsequently to the Postmaster-General signifying to the said company his intention that the mails or post letter bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye laws, orders, rules, and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall be and be deemed absolutely void and of no effect, in like manner as if such bye-laws, orders, rules, or regulations, had never been made or passed, anything to the contrary in anywise notwithstanding.

Penalty for refusing or neglecting to convey mails, 12. And be it enacted, That if the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter bags, when tendered to them for such purpose by the Postmaster-General or any officer of the post-office, or shall refuse to carry on their railway any mail coaches, carts, or carriages as hereinbefore provided, when so required by the Postmaster-General, or shall refuse or neglect to receive, take up, deliver, and leave any such mails or post letter bags, mail guards, or other officers of the post-office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the Postmaster-General shall from time to time reasonably direct or appoint, as hereinbefore provided, or shall not obey, observe, and perform all such regulations respecting the conveyance of the mails and post letter bags, mail coaches, carts, and carriages on any such railways as the Postmaster-General or such officer of the post-office as he shall nominate in that behalf, shall make for the purposes aforesaid, then and in any such case the company of proprietors who, or whose officer, servant, or agent, shall so offend in the premises, shall for every such offence forfeit and pay a sum not exceeding twenty pounds; provided nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions hereinafter contained.

Company to give security by bond when required 13. And be it enacted, That it shall be lawful for the Postmaster-General, if he shall so think fit, to require the company of proprietors of any railway already made or in progress, or to be hereafter made within the United Kingdom, to give security by bond to her Majesty, her heirs

and successors, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter bags, mail guards, and other officers of the post-office, mail coaches, carts, and carriages in manner hereinbefore mentioned, when thereunto required by the Postmaster-General, or any officer of the post-office duly authorized for that purpose, and shall receive, take up, deliver, and leave all such mails or post letter bags, guards and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe, and perform all such regulations respecting the same as the Postmaster-General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things, as by this Act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants, and agents; and every such bond shall be taken in such sum and in such form as the Postmaster-General shall think proper; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as the Postmaster-General shall in his discretion require the same to be renewed; and if any company of proprietors of any such railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the Postmaster-General, to execute to her Majesty, her heirs and successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall, by or in pursuance of this Act, be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

*Conveyance
of Mails.*

*Such secu-
rity to be
renewed
from time
to time.*

14. Provided always, and be it enacted, That in all cases in which any railway or part of a railway may, previous to the passing of this Act, have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this Act for or in respect of such railway or part of a railway, in lieu of

*Lessees not
being a
body cor-
porate or
company
not to be re-
quired to
give secu-
rity above
1000*l*.*

Conveyance of Mails. such company of proprietors, but so that such lessees, (not being a body corporate or company,) their executors, administrators, or assigns, shall not be required in respect of any such railway or part of a railway to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit.

Service of notices.

15. And be it enacted, That all notices under the provisions of this Act by or on behalf of the Postmaster-General to any company of proprietors of any railway as aforesaid, shall be considered as duly served on any company of proprietors in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company.

Differences between Postmaster-General and company to be settled by arbitration

16. And be it enacted, That in all cases in which the Postmaster-General and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the Postmaster-General to such company of proprietors for any services performed or to be performed by them as hereinbefore mentioned, the same shall be referred to the award of two persons, one to be named by the Postmaster-General, and the other by such company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first-named persons previously to their entering upon the inquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

After contracts have existed three years, company may refer them to arbitrators to decide as to their continuance.

17. And be it enacted, That after any contract entered into or award made under the authority of this Act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such arbitrators or umpire to be appointed as hereinbefore mentioned shall proceed to inquire into the circumstances, and make their award therein, as in the case of an original agreement: Provided always, that the services performed by such railway company for the post-office shall in nowise be interrupted or impeded thereby

18. And be it enacted, That in all references to be made under the authority of this act, the Postmaster-General, or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty-eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty-eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators, who shall in like manner proceed and make his award within twenty-eight days, or in default be superseded, and so "toties quoties."

*Conveyance
of Mails.*

Arbitrators
to be nomi-
nated with-
in 14 days
after notice.

19. And be it enacted, That whenever the term "company of proprietors," or "railway company," or "company" is used in this act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate or company or individuals, to whom any railway or part of a railway may previous to the passing of this act have been demised or let, and their successors, executors, administrators, and assigns, unless the subject or context be otherwise repugnant to such construction; and that the provisions of this act shall be construed according to the respective interpretations of the terms and expressions contained in an act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative to Offences against the Post-office of the United Kingdom, and for regulating the judicial administration of the Post-office Laws, and for explaining certain terms and expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions; and that this present act shall be deemed and construed to be a post-office act within the intent and meaning of the said last-mentioned act; and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the post-office acts: Provided nevertheless, that any justice of the peace having jurisdiction for any county through which any railway shall pass, in respect of which any penalty or forfeiture under this act shall have been in-

Interpreta-
tion of
Words.

—
"Company
of Proprie-
tors,"
"Railway
Company,"
"Company"

and accord-
ing to the
1 Vict.c.36

Proviso.

Conveyance of Mails. — curred, shall and may hear and determine any offence against this act which may subject any company to a pecuniary penalty not exceeding twenty pounds; and a summons issued under the post-office acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company.

Act may be amended or repealed. 20. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

2 & 3 VICT. cap. 45.

An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth relating to Highways.

[17th August, 1839.]

J & 6 W. 4, c. 60. WHEREAS by an act passed in the session of parliament holden in the fifth and sixth years of the reign of his late majesty king William the fourth, intituled "An Act to consolidate and amend the Laws relating to Highways in that Part of Great Britain called England," it is amongst other things by the said act enacted, that whenever a railroad shall cross any highway for carts or carriages the proprietors of the said railroad shall make and maintain good and sufficient gates at each of the said crossings, and shall employ good and proper persons to attend to the opening and shutting of such gates, so that the persons, carts, or carriages passing along such road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad, and any complaint for any neglect in respect of the said gates shall be made within one month after the said neglect to one justice, who may summon the party so complained against to appear before the justices at their next special sessions for the highways, who shall hear and decide upon the said complaint, and the proprietor so offending shall forfeit any sum not exceeding five pounds and whereas it is also by the said act further enacted, that nothing in this act contained shall apply to any

turnpike roads, except where expressly mentioned, or to any roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchyards, or pavements which now are or may hereafter be paved, repaired, or cleansed, broken up or diverted, under or by virtue of the provisions of any local or personal act or acts of parliament: and whereas it is deemed expedient to amend the said provisions in the said act, and to extend the same to turnpike roads in England: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same,

1. That wherever a railroad crosses or shall hereafter cross any turnpike road or any highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the company of proprietors of the said railroad shall make and maintain good and sufficient gates across each end of such turnpike or other road as aforesaid at each of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or highway shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad; and any complaint for any neglect in respect of the said gates shall be made within one calendar month after the said neglect to any justice of the peace, or if in Scotland to the sheriff of the county, who may summon the party so complained against to appear before them or him at the next petty sessions or court to be holden for the district or division within which such gates are situate, who shall hear and decide upon the said complaint; and the proprietor or director so offending shall for each and every day of such neglect forfeit any sum not exceeding five pounds, together with such costs as to the justices or sheriff depute aforesaid before whom the conviction shall take place shall seem fit.

Proprietors of railroad to maintain gates where any railroad crosses the highway. &c.
Recited by 5 & 6 Vict. c. 55, s. 9.

Penalty 5*l.* for each day's neglect.

2. And be it further enacted, that the penalties by this act imposed, and the costs to be allowed and ordered by the authority of this act, shall in England be recovered and applied in the same manner as any penalties and costs under the said act, and in Scotland shall be recovered and applied to the maintenance of the statute labour roads within the district where the offence is committed.

How penalties shall be recovered and applied.

Commence- 3. And be it further enacted, that this act shall com-
ment of act. mence and take effect from and after the thirtieth day of
September, one thousand eight hundred and thirty-nine.

3 & 4 VICT. cap. 97.

An Act for regulating Railways.
[10th August, 1840.]

Preamble WHEREAS it is expedient for the safety of the public to
provide for the due supervision of railways:

Opening of 1. Be it therefore enacted, by the Queen's most excel-
Railways. lent Majesty, by and with the advice and consent of the
Lords spiritual and temporal, and Commons, in this pre-
sent Parliament assembled, and by the authority of the

Repealed by same, *That, after two months from the passing of this*
5 & 6 Vict. *act, no railway, or portion of any railway, shall be opened*
c. 55, s. 3. *for the public conveyance of passengers or goods until one*
calendar month after notice in writing of the intention of
opening the same shall have been given by the company to
whom such railway shall belong, to the lords of the com-
mittee of her Majesty's privy council appointed for trade
and foreign plantations.

Repealed by 2. *And be it enacted, That if any railway, or portion of*
5 & 6 Vict. *any railway, shall be opened without due notice as aforesaid,*
c. 55, s. 3. *the company to whom such railway shall belong shall forfeit*
to her Majesty the sum of twenty pounds for every day
during which the same shall continue open, until the expira-
tion of one calendar month after the company shall have
given the like notice as is hereinbefore required before the
opening of the railway; and any such penalty may be reco-
vered in any of her Majesty's courts of record.

Returns to 3. And be it enacted, That the lords of the said com-
be made by mittee may order and direct every railway company to
Company. make up and deliver to them returns, according to a form
to be provided by the lords of the said committee, of the

aggregate traffic in passengers, according to the several classes, and of the aggregate traffic in cattle and goods respectively, on the said railway, as well as of all accidents which shall have occurred thereon attended with personal injury, and also a table of all tolls, rates, and charges from time to time levied on each class passengers, and on cattle and goods, conveyed on the said railway; and if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her Majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record: Provided always, that such returns shall be required, in like manner and at the same time, from all the said companies, unless the lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings.

Board of Trade may require returns of traffic and accidents, and a table of tolls.

Sections 3 & 4 repealed by 34 & 35 Vict. c. 78, s. 17, except so much as relates to a table of tolls, rates and duties.

4. And be it enacted, That every officer of any company who shall wilfully make any false return to the lords of the said committee shall be deemed guilty of a misdemeanour.

Penalty for making false returns.

5. And be it enacted, That it shall be lawful for the lords of the said committee, if and when they shall think fit, to authorise any proper person or persons to inspect any railway; and it shall be lawful for every person so authorised, at all reasonable times, upon producing his authority, if required, to enter upon and examine the said railway, and the stations, works and buildings, and the engines and carriages belonging thereto: Provided always, that no person shall be eligible to the appointment as inspector as aforesaid who shall within one year of his appointment have been a director or have held any office of trust or profit under any railway company.

Inspectors of Railways.

Appointment of, by Board of Trade.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

6. And be it enacted, That every person wilfully obstructing any person, duly authorised as aforesaid, in the execution of his duty, shall, on conviction before a justice of the peace having jurisdiction in the place where the offence shall have been committed, forfeit and pay for every such offence any sum not exceeding ten pounds; and on default of payment of any penalty so adjudged immediately or within such time as the said justice of the peace shall appoint, the same justice, or any other justice having jurisdiction in the place where the offender shall be or reside, may commit the offender to prison for any period not exceeding three calendar months; such commitment to be determined on payment of the amount

Penalty for obstructing inspector.

Repealed by 34 & 35 Vict. c. 78, s. 17.

of the penalty; and every such penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual manner.

Bye-Laws.

made
before the
passing of
this act, to
be laid be-
fore Board
of Trade,

otherwise
to be void.

Bye-laws
hereafter
made to be
approved of
by Board of
Trade.

Applied by
8 & 9 Vict.
c. 20, s. 109.

Board of
Trade may
disallow
bye laws.

Provisions
requiring
confirmation
of bye-laws.

7. And whereas many railway companies are or may hereafter be empowered by act of parliament to make bye-laws, orders, rules, or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control; be it enacted, That true copies of all such bye-laws, orders, rules, and regulations made under any such powers by every such company before the passing of this act, certified in such manner as the lords of the said committee shall from time to time direct, shall, within two calendar months after the passing of this act, be laid before the lords of the said committee; and that every such bye-law, order, rule, or regulation, not so laid before the lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been then already incurred under the same.

8. And be it enacted, That no such bye-law, order, rule, or regulation made under any such power, and which shall not be in force at the time of the passing of this act, and no order, rule, or regulation annulling any such existing bye-law, rule, order, or regulation which shall be made after the passing of this act, shall have any force or effect until two calendar months after a true copy of such bye-law, order, rule, or regulation, certified as aforesaid, shall have been laid before the lords of the said committee, unless the lords of the said committee shall, before such period, signify their approbation thereof.

9. And be it enacted, That it shall be lawful for the lords of the said committee, at any time either before or after any bye-law, order, rule, or regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no bye-law, order, rule, or regulation which shall be so disallowed shall have any force or effect whatsoever, or, if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

10. And be it enacted, That so much of every clause, provision, and enactment in any act of parliament here-
after passed as may require the approval or concurrence

of any justice of the peace, court of quarter sessions, or other person or persons, other than members of the said companies, to give validity to any bye-laws, orders, rules, or regulations made by any such company, shall be repealed.

laws by
justices,
repealed.

Repealed by
34 & 35 Vict.
c. 78, s. 17.

11. And be it enacted, That whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any of the said companies, or the provisions of this act, have not been complied with on the part of any of the said companies, or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's Attorney-General for England, or Ireland, or to the Lord-Advocate for Scotland, as the case may require; and thereupon the said Attorney-General or Lord-Advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts: provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same.

Prosecu-
tions to
enforce
provisions
of railway
acts.

Repealed by
7 & 8 Vict.
c. 85, s. 16.
and 34 & 35
Vict. c. 78,
s. 17.

12. And be it enacted, That no legal proceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against this act, or any of the several acts of parliament relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed.

Amended
by 7 & 8
Vict. c. 85,
s. 18.

Repealed
by 34 & 35
Vict. c. 78,
s. 17.

13. And be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, guard, porter, or other servant in the employ of such company who shall be found drunk while employed upon the railway, or commit any offence against any of the bye-laws, rules, or regulations of such company, or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains shall be or might be obstructed or im-

Railway
servants
guilty of
miscon-
duct.

Amended
by 5 & 6
Vict. c. 55,
s. 17.

*Railway
servants
guilty of
miscon-
duct.*

[Amended
by 5 & 6
Vict. c. 53,
s. 17.]

[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Justice may
send any
case to be
tried at the
quarter
sessions.

*Obstruc-
tions.*

Repealed
by 24 & 25
Vict. c. 96,
and 34 & 35
Vict. c. 78,
s. 17.

peded, and to convey such engine driver, guard, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding or assisting therein as aforesaid, shall when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made, upon oath without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence, forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned with or without hard labour as aforesaid, *for such period, not exceeding two calendar months, as such justice shall appoint; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.*

14. Provided always, and be it enacted, That (if upon the hearing of any such complaint he shall think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for the county or place wherein such offence shall have been committed, and to order that any such person so committed shall be imprisoned and detained in any of her Majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour for any term not exceeding two years.

15. *And be it enacted, That from and after the passing of this act every person who shall wilfully do or cause to be done anything in such manner as to obstruct any engine or carriage using any railway, or to endanger the safety of persons conveyed in or upon the same, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court before which he shall have been convicted, to be imprisoned, with or without hard labour, for any term not exceeding two years.*

16. And be it enacted, That if any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises), shall, in the discretion of such justice, forfeit to her Majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned for any term not exceeding two calendar months, such imprisonment to be determined on payment of the amount of the penalty.

Obstructions.

Punishment of persons obstructing officers of railway, or trespassing.

[Amended by 47 & 48 Vict. c. 43, s. 4]

17. And be it enacted, That no proceeding to be had and taken in pursuance of this act shall be quashed or vacated for want of form, or be removed by certiorari, or by any other writ or process whatsoever, into any of her Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

Proceedings not to be quashed for want of form, &c.

18. And whereas many railway companies are bound by the provisions of the acts of parliament by which they are incorporated or regulated, to make, at the expense of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said acts specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands, and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions: and whereas it is expedient that so much of every clause, provision, and enactment in any act of parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed; be it there-

Branch Railway.

Repeal of provision in railway acts empowering justices to decide disputes.

Branch Railways.

Board of Trade to determine such disputes in future.

Service of notices,

to Board of Trade.

[Repealed by 31 & 32 Vict. c. 119, s. 47, and 34 & 35 Vict. c. 78, s. 17.]

on company.

Interpretation of words.

"Railway."

"Company"

Act may be amended or repealed.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

fore enacted, that so much of every such clause, provision, and enactment as aforesaid shall be repealed.

19. And be it enacted, That in case any disagreement or difference shall arise between any such owner or occupier or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway (except at such places as aforesaid), for the purpose of such communication, then the same shall be left to the decision of the lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties.

20. And be it enacted, That all notices, returns, and other documents required by this act to be given to or laid before the lords of the said committee, shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, appointments, requisitions, certificates, or other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this act, be deemed to have been made by the lords of the said committee; and service of the same upon any one or more of the directors of any railway company, or on the secretary or clerk of the said company, or by leaving the same with the clerk or officer at one of the stations belonging to the said company, shall be deemed good service upon the said company.

21. And be it enacted, That wherever the word "railway" is used in this act it shall be construed to extend to all railways constructed under the powers of any act of parliament, and intended for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word "company" is used in this act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless the subject or context be repugnant to such construction.

22. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

5 & 6 VICT. cap. 55.

*An Act for the better Regulation of Railways.
and for the Conveyance of Troops.*

[30th July, 1842.]

WHEREAS by an Act passed in the third and fourth years of the reign of her present Majesty, intituled, "An Act for Regulating Railways," provision was made for the supervision of railways: and whereas it is expedient for the safety of the public to make further provision for that purpose;

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall come into operation on the passing thereof.

2. And be it enacted, That the provisions of the said recited act and of this act shall be construed together as one act, except so far as the provisions of the said recited act are hereby repealed, or shall be inconsistent with the provisions of this act.

3. And whereas by the said recited act it is enacted, that after two months from the passing of the said recited act no railway, or portion of any railway, shall be opened for the public conveyance of passengers or goods until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations: and whereas by the said recited act it is also enacted, that if any railway or portion of any railway shall be opened without due notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open, until the expiration of one calendar month after the company shall have given the like notice as is hereinbefore required before the opening of the railway, and any such penalty may be recovered in any of her Majesty's courts of record; be it enacted, That the said recited provisions of the said act shall be and they are hereby repealed.

4. And be it enacted, That no railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given,

Preamble
3 & 4 Vict.
c. 97.

Commence-
ment of this
act.

3 & 4 Vict.
c. 97, & this
act to be
construed
together.

Opening of
railways.

Repeal of
3 & 4 Vict.
c. 97, s. 1
and 2.

Notice of
intended
opening to
be given

Opening of railways. by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the lords of the said committee of the time when the said railway or portion of railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

Penalty for opening without notice. 5. And be it enacted, That if any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Board of Trade may postpone the opening if inspector report that the same would be attended with danger. 6. And be it enacted, That if the officer or officers appointed by the lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the lords of the said committee that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the lords of the said committee, and so from time to time, as often as such officers shall after further inspection thereof so report, to order and direct the company to whom such railway shall belong to postpone such opening for any period not exceeding one calendar month at any one time, until it shall appear to the lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the lords of the said committee, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland: provided always, that no such order as aforesaid shall be binding upon any railway company unless therewith shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded.

Proviso.

7. And be it enacted, That every railway company shall, within forty-eight hours after the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to the public using the same, give notice thereof to the lords of the said committee; and if any company shall wilfully omit to give such notice, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the omission to give the same shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Accidents.
—
when attended with personal injury, notice of, to be given to Board of Trade.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

8. And be it enacted, That the lords of the said committee may order and direct any railway company to make up and deliver to them returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the lords of the said committee shall deem necessary and require for their information with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the said company shall neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record, or in the courts of session, or in any of the sheriffs' courts in Scotland; provided always that all such returns shall be privileged communications, and shall not be evidence in any court whatsoever.

Board of Trade may direct returns of accidents, whether attended with personal injury or not.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

Proviso.

9. And whereas by an Act passed in the second and third years of her present Majesty, and intituled, "An Act to amend an Act of the fifth and sixth years of his late Majesty King William the Fourth relating to Highways," it was enacted, that whenever a railway crosses or shall hereafter cross any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway, and whereas by the acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway except during the time when carriages or engines passing along the railway shall have to cross

Gates at level crossings.

2 & 3 Vict. c. 45, s. 1.

Gates at level crossings.

Gates to be kept closed across the road.

Board of Trade may order that gates be kept closed across the railway.

such turnpike or other road : and whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway ; be it therefore enacted, That, notwithstanding anything to the contrary contained in any act of parliament heretofore passed, such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts, or carriages passing along such turnpike or other road shall have to cross such railway ; and such gates shall be of such dimensions and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed : provided always, that it shall be lawful for the lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road ; and such order of the lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed for keeping such gates closed, in the manner directed by the lords of the said committee.

Fences.

Company to erect and maintain throughout the whole of the line.

10. And whereas it is expedient that further provision be made for the safety of the public in respect of the fences of railways ; be it enacted, That all railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would have been if every part of such fences had been originally ordered to be made under an order of justices by virtue of the provisions to that effect in the acts of parliament relating to such railways respectively.

Disputes between connecting railways

to be decided by the Board of Trade.

11. And be it enacted, That where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne

by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the lords of the said committee pursuant to this provision, such company shall forfeit to her Majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriffs courts in Scotland.

Disputes between connecting railways.

12. And whereas powers of laying down branch lines opening into the ledges or flanches of main lines of railway, and of entering upon and passing along such main lines with carriages and waggons drawn by locomotive engines, or by other mechanical or animal power, and also powers to form roads or railways across existing railways on a level, have been given by various acts relative to railways to the owners or occupiers of lands adjoining the railway, and to other persons with their consent: and whereas experience has shown that the exercise of such powers without limitation would in many cases be attended with danger to the public using such railway; be it therefore enacted, That if, in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the lords of the said committee shall direct: provided always, that no railway shall be considered a passenger railway if two-thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, ironstone, or other metals or minerals.

Branch Railways.

Powers of making, to be regulated by the Board of Trade.

A passenger railway defined.

13. And whereas in many cases railways have been made to cross turnpike roads, highways, and private roads and tramways on the level, and the companies to whom such railways belong would in some cases be willing, at their own expense, to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: and whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the lords of the said committee, to substitute bridges or archways for such level crossings as aforesaid; be it therefore enacted, That in all cases where any railway company shall be willing, at their own expense, to carry any turnpike road,

Alteration of level crossings.

Board of Trade may authorize company to carry roads over or under railway.

*Alteration
of level
crossings.*

highway, or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger at their own expense, either by building a bridge, or by such other arrangement as the nature of the case shall require, subject to such conditions as the lords of the said committee shall direct.

*Entry upon
adjoining
lands.*

**Board of
Trade may
authorize
company to
enter upon
adjoining
lands, to re-
pair or pre-
vent acci-
dents.**

14. And whereas it is essential for the public safety, and also for the proper maintenance of railways in a state of efficiency for the public service, that railway companies should have the power, in case of accidents or slips happening or being apprehended to their cuttings and embankments or other works, to enter upon the lands adjoining their respective railways, for the purpose of repairing or renewing the same, and to do such works as may be necessary for the purpose; be it therefore enacted, That it shall be lawful for the lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment, or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: provided always, that in case of necessity it shall be lawful for any railway company to enter upon such lands and do such works as aforesaid, without having obtained the previous sanction of the lords of the said committee; but in every such case such railway company shall, within forty-eight hours after such entry, make a report to the lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall

**Compensa-
tion to own-
ers and
occupiers.**

be settled in the same manner as cases of disputed compensation are directed to be settled by the acts relating to the railway on which such works may become necessary: provided always, that no land shall be taken permanently by any railway company for such works without a certificate from the lords of the said committee as hereinafter described.

Entry upon adjoining lands.
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15. And whereas by various acts relating to railways compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said acts: and whereas it is sometimes found necessary for the public safety that additional land should be taken after the expiration of such periods for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are hereinbefore described; be it therefore enacted, That, in every case in which the lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the act or acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate: provided always, that any railway company applying to the lords of the said committee for any such certificate shall give fourteen days' notice in writing, in the manner prescribed by the act or acts of such company for serving notices on land owners, of their intention to make such application to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the lords of the said committee, such party shall be heard by them before any such certificate is given: provided also, that where any such application shall have been made by any railway company to the lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application.

Compulsory powers of taking land.
—

Board of Trade may extend the, if thought necessary for safety

Company applying to Board of Trade to give notice to owners, and state particulars of lands required.

Carriages.

Repeal of provisions restricting weight of carriages to four tons,

may be used of a greater weight.

Railway servants guilty of misconduct.

Punishment of persons employed on railways guilty of misconduct.

See 3 & 4 Vict. c. 97, s. 13 & 14.

16. And whereas by various acts relating to railways it is enacted, that no carriage or waggon shall carry or bear at any one time upon the railway (including the weight of such carriage) more than four tons, and experience has shown that it is in many cases more conducive to safety to use a heavier description of carriage or waggon upon railways than was originally contemplated; be it therefore enacted, That every provision contained in any such act or acts respectively limiting the weight to be carried or borne at any one time in any carriage or waggon upon any railway (including the weight of such carriage or waggon) to four tons shall be and the same is hereby repealed, and that, notwithstanding any thing in any act contained, it shall be lawful for any railway company to use and to permit to be used upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any act or acts of parliament already or hereafter to be passed in that behalf.

17. And whereas by the said recited act for regulating railways provision is made for the punishment of servants of railway companies guilty of misconduct, and it is expedient to extend such provision; be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the said or by any other railway company, or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules, or regulations of the said company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding or assisting therein, as aforesaid.

shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

*Railway
servants
guilty of
miscon-
duct.*

18. And be it enacted, That in all cases in which by the present or the said recited act for regulating railways it is provided that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

*If offence
committed
in Scotland,
sheriffs to
have jurisdic-
tion.*

19. And be it enacted, That all notices, returns, and other documents required by this act or by the said recited act to be given to or laid before the lords of the said committee shall be delivered at or sent by the post to the office of the lords of the said committee: and all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this and of the said recited act, be deemed to have been made by the lords of the said committee, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto;

*Service of
notices,
to Board of
Trade.*

[Repealed
by 31 & 32
Vict. c. 119,
s. 47, & sch.
2.]

Service of notices,

on com-
pany.

and service of the same at one of the terminal offices of any railway company on the secretary or clerk of the said company, or by sending the same by post addressed to him at such office, shall be deemed good service upon the said company.

*Convey-
ance of
military
and police.*

Amended
by 7 & 8
Vict. c. 85,
s. 12.

[Re: called
by 46 & 47
Vict. c. 34,
s. 10.]

*Interpreta-
tion of
words.*

“Railway.”

“Company”

20. And be it enacted, That whenever it shall be necessary to move any of the officers or soldiers of her Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessities and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities.

21. And be it enacted, That whenever the word “railway” is used in this or in the said recited act it shall be construed to apply to all railways used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word “company” is used in this or in the said recited act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless, in either of the above cases, the subject or context be repugnant to such construction.

*Application
of penalties.*

22. And be it enacted, That all penalties under this act, for the application of which no special provision is made, shall be recovered in the name and for the use of her Majesty, in the manner provided by the said recited act for regulating railways.

Act may be
amended or
repealed.

23. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament

5 & 6 VICT. cap. 79.

An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to the Stamp Duties (so far as relates to Railways).
[5th August, 1842.]

WHEREAS (inter alia) by an act passed in the second and third years of the reign of his late majesty king William the fourth, intituled "An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages, and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto," certain duties contained in the schedule (A.) to the last-mentioned act annexed were granted for and in respect of all passengers conveyed for hire along any railway in Great Britain in or upon carriages drawn or impelled by the power of steam or otherwise; and it is expedient that all the said duties should be repealed, and others granted in lieu thereof; be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same:

1. That from and after the commencement of this act the aforesaid duties granted and imposed by the said act passed in the second and third years of her majesty's reign, for and in respect of passengers conveyed for hire along any railway in Great Britain, shall severally cease and determine, and the same shall be and are hereby repealed.

2. And be it enacted, That in lieu of the duties by this act repealed there shall be raised, levied, collected, and paid, unto and for the use of her majesty, her heirs and successors, in and throughout Great Britain, for and in respect of the passengers conveyed upon any railway, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the same schedule; and that

2 & 3 W.
4, c. 120

Railway
passengers.

New duties
to be le-
vied. [See
7 & 8 Vict
c. 86, s. 9,
as to pas-
sengers by
cheap
trains.]

the said schedule shall be deemed and taken to be a part of this act.

Accounts to be kept of money received for the conveyance of passengers on railways ;

and of money paid by the persons carrying such passengers to the proprietors of railways, on account of fares received or for the use of the railway.

Copies of the accounts to be delivered to the com-

4. And be it enacted, That the proprietor or company of proprietors of every railway in Great Britain, and every other person who shall carry or convey, or cause to be carried or conveyed, any passenger for hire in or upon any railway in Great Britain, shall, from time to time and at all times, keep and enter or cause to be entered in a book or books to be kept for that purpose, in such manner and form as the commissioners of stamps and taxes shall direct or approve, a just and true account of all and every sum and sums of money which shall be received or charged daily by or for such proprietor or company or other person for the hire, fare, or conveyance of all such passengers as aforesaid, whether the same shall be received for the conveyance of passengers on the railway of such proprietor or company or other person only, or on such last-mentioned railway and any other railway, or on any such other railway only, and for or in respect of all which sums of money the duties charged by this act shall, in manner herein-after directed, be paid by the said proprietor or company or other person so receiving or charging the same as aforesaid, without any deduction or abatement thereout on any account or pretence whatever ; and the proprietor or company of proprietors of any railway so receiving or charging any such sums of money as aforesaid shall also in like manner keep and enter or cause to be entered an account of all sums of money paid or accounted for, or to be paid or accounted for, by such proprietor or company to the proprietor or company of proprietors of any other railway (specifying the same) upon which any of such passengers shall be carried or conveyed, as his or their share or proportion of any of such sums of money so received or charged as aforesaid, or as or for or in the nature of toll or otherwise for the use of such last-mentioned railway, in the conveyance of such passengers ; and the proprietor or company of proprietors of every such last-mentioned railway shall in like manner keep and enter or cause to be entered an account of all sums of money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the duties shall or ought to have been paid as aforesaid by such first-mentioned proprietor or company ; and every such proprietor and company and other person and persons respectively shall, *within five days after the first Monday in every calendar month, deliver to the commissioners of stamps and taxes, or to the proper officer appointed for receiving*

the same, a true copy or true copies of the account or accounts by this act directed to be kept, so far as the same shall relate to all sums of money received or charged and paid or accounted for as aforesaid during the preceding four or five weeks, as the case may be; (that is to say,) from and including the first Monday in the preceding month up to the first Monday of the month in which such account shall be rendered or ought to be rendered as aforesaid; and to and with every such account there shall be annexed and delivered an affidavit (to be taken before any one of her majesty's justices of the peace) of such proprietor or other person as aforesaid, or of the secretary, chief clerk, or accountant of such proprietor or company or other person, stating that the deponent is well acquainted with the books and accounts of the said proprietor, company, or other person, and that he has examined and checked the same, and also the account to which such affidavit is annexed, and that to the best of his knowledge, information, and belief such last-mentioned account doth contain and is a true and faithful account of all and every sum and sums of money received or charged by or for such proprietor or company or other person aforesaid for the hire, fare, or conveyance of passengers on any railway during the period comprised in such account, and of all other matters and things required by this act to be contained in such account; and such proprietor or company or other person shall, at the time of delivering every such account, pay or cause to be paid to the receiver general of stamps and taxes, or to the officer authorized by the said commissioners to receive the same, for the use of her majesty, the duties chargeable under this act for or in respect of all and every the sum and sums of money so received or charged as aforesaid, and contained or which ought to be contained in such account.

missioners
of inland
revenue,
verified by
affidavit,
and duties
paid there-
on monthly
Hy 26 & 27
Vict. c. 33,
s. 13, such
accounts
are to be
made up at
the close of
each calen-
dar month,
and be de-
livered
within 20
days there-
after.

[Amended
by 46 & 47
Vict. c. 34,
s. 7.]

5. Provided always, and be it enacted, That it shall be lawful (where there shall be no express contract or agreement between the parties to the contrary) for any such proprietor or company to deduct from and retain out of the monies to be paid over to any such other proprietor or company as aforesaid, the amount of the duties by this act chargeable thereon, and which such proprietor or company receiving such monies shall have paid or be liable to pay.

Proprietors
of railways
to deduct
the duties
on the
sums to be
paid over
to other
proprietors.

6. And be it enacted, That all and every the book and books of every such proprietor or company or other person, in which any account relating to such passengers, or to the money received or charged for the hire,

Books con-
taining any
such ac-
counts to

be open to inspection of officers of stamps.

Penalty for refusing to permit inspection.

Railway proprietors to give bond for securing the duties.

[Amended by 40 & 47 Vict. c. 34, s. 7.]

fare, or conveyance of the same, or to any money received from or paid or accounted for to any other proprietor or company for such hire, fare, or conveyance as aforesaid, or a proportion thereof, or as or for such toll as aforesaid, shall be entered or kept, shall be open for the inspection and examination at all seasonable times of any officer or officers of stamp duties authorized by the commissioners of stamps and taxes in that behalf; and every such officer shall be at liberty to take copies of or extracts from any such book or account as aforesaid; and if any such proprietor or other person, or the secretary or accountant, or any clerk or officer of any such proprietor or company or person, having or keeping the custody or possession of any such book, or having power to produce the same, shall, upon demand made by any such officer, and upon producing and showing his authority, refuse to permit such officer of stamp duties to inspect and examine such book, or to take copies thereof or extracts therefrom, or of or from any account entered or contained therein, or shall refuse to produce such book to such officer of stamp duties for his inspection and examination, every such person so offending shall for every such offence forfeit the sum of fifty pounds.

7. And be it enacted, That the proprietor or company of proprietors of every such railway, and every other person, before any passengers shall be conveyed or caused to be conveyed by him or them on any railway as aforesaid, shall give security, by bond, to her majesty, her heirs and successors, with a condition that such proprietor or company, or other person as aforesaid, shall from time to time enter and keep, and cause to be kept and rendered, in the manner directed by this act, the accounts by this act required to be kept and rendered by such proprietor and company and persons respectively, containing and setting forth justly, truly, and faithfully all the several matters and things by this act required to be contained and set forth therein; and that such proprietor or company or person, and his or their secretary, accountant, and clerk, and every other person under or subject to his or their order, direction, or control, having the custody or possession of any books or book of such proprietor or company or other person as aforesaid, in which any account relating to any passengers conveyed upon any railway, or the money received, charged, accounted for, or paid for the hire, fare, or conveyance of the same, shall be contained or entered, shall from time to time, upon every reasonable request of any officer of stamp duties authorized as aforesaid, produce and show to such officer, and per-

mit him to inspect and examine the same, and to take copies thereof or extracts therefrom, and of from any account entered or contained therein; and that such proprietor or company or other person aforesaid shall and will well and truly pay or cause to be paid, for the use of her majesty, her heirs and successors, at the times and in manner directed by this act, all and every the duties which shall from time to time become chargeable under this act, and payable by him or them upon or for or in respect of the passengers, or the hire or fare or conveyance of the passengers, which shall be so conveyed as aforesaid along any railway; and that such proprietor or company, or other person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such acts, matters, and things as by this act are required or directed to be done or performed by or on the part or behalf of such proprietors or company or other person; and every such bond shall be taken with sufficient sureties to the satisfaction of the commissioners of stamps and taxes, and in such sum as the said commissioners may judge to be reasonable and proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt or insolvent, or reside in parts beyond the seas, and also whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway, or other person as aforesaid, shall convey or cause to be conveyed upon any railway any passengers for hire, without having first given such security by bond to her majesty, in manner herein-before directed, or if any proprietor or company of proprietors of any railway shall permit or suffer any passengers to be conveyed for hire upon such last-mentioned railway, by any other person or company, before such other person or company shall have given security as aforesaid, and before a certificate, signed by the proper officer of stamp duties in that behalf, (which certificate such officer is hereby authorized and required to give,) that such security hath been given, shall have been issued, or after notice in writing, signed by any authorized officer of stamp duties, and delivered to the secretary or chief clerk of the proprietor or company of proprietors of such railway, or left at the office of such railway with any clerk or officer there, that any such security ought, in pursuance of this act, to be renewed, or is required to be renewed, and before a certificate, signed as aforesaid, that the

*Options of
revision
and pur-
chase.*

said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of ten pounds for every hundred pounds of such capital stock : provided also, that such revised scale shall not be again revised or such guarantee withdrawn, otherwise than with the consent of the company, for the further period of twenty-one years.

*Treasury
may pur-
chase
future rail-
ways.*

2. And be it enacted, That whatever may be the rate of divisible profits on any such railway, it shall be lawful for the said lords commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of her Majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years : provided that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said company : provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares, and charges shall be in force.

Proviso

Proviso

*Options not
to be ap-
plied to ex-
isting rail-
ways.*

3. Provided always, and be it enacted, That the option of revision or purchase shall not be applied to any railway made or authorized to be made by any act previous to the present session ; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this act ; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

*Options not
to be exer-
cised by
treasury
until autho-
rized by
parliament.*

4. And whereas it is expedient that the policy of revision or purchase should in no manner be prejudged by the provisions of this act, but should remain for the future consideration of the legislature, upon grounds of general and national policy : and whereas it is not the intention of this act that under the said powers of revision or pur-

chase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies; be it enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by parliament, by an act or acts to be passed in that behalf, for authorizing the guarantee or the levy of the purchase money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of parliament unless it be recited in the preamble to such bill that three months' notice of the intention to apply to parliament for such powers has been given by the said lords commissioners to the company or companies to be affected thereby.

*Options of
revision
and pur-
chase.*

5. And be it enacted, That, from and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained, (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk, line, or other railways,) by the directors of the company to whom such railway belongs or by whom the same may be worked; and every such railway company shall once in every half year, during the said period of three years, cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said lords commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more directors of the said railway company, and shall send a copy of the said account to the said lords commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said lords commissioners, in each year; and it shall be lawful for the said lords commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said

*Companies
liable to the
options to
keep ac-
counts and
send copy
of balance-
sheet to the
Treasury.
[Amended
by 30 & 31
Vict. c. 101.]*

42 Duties on Passengers upon Railways. [5 & 6 Vict. c. 79.]

- Penalty.** same has been renewed, shall have been issued; or if any such proprietor or company of proprietors, or other person, shall refuse or neglect to renew such security, whenever and so often as the same is or shall by or in pursuance of this act be required to be renewed, such proprietor or company or person shall forfeit the sum of one hundred pounds, and the further sum of one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, or for every day on which any such passengers shall be permitted to be conveyed before such security shall be given or renewed, and a certificate thereof issued as aforesaid, according to the true intent and meaning of this act.
- Commence-
ment of act.** 26. And be it enacted, that this act shall commence and take effect on the respective days herein-after mentioned; (that is to say,) so much thereof as relates to the duties on passengers conveyed on railways shall commence and take effect on the first day of August in this present year one thousand eight hundred and forty-two.

SCHEDULE.

The DUTIES in respect of PASSENGERS conveyed for Hire by CARRIAGES travelling upon RAILWAYS; (that is to say,)

For and in respect of all passengers conveyed for hire upon or along any railway, a duty at and after the rate of 5*l.* for 100*l.* upon all sums received or charged for the hire, fare, or conveyance of all such passengers.

7 & 8 VICT. cap. 85.

An Act to attach certain Conditions to the Construction of Future Railways, authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.

[9th August, 1844.]

WHEREAS it is expedient that the concession of powers for the establishment of new lines of railway should be subjected to such conditions as are hereinafter contained for the benefit of the public :

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the end of twenty-one years from and after the first day of January next after the passing of any act of the present or of any future session of parliament for the construction of any new line of passenger railway, whether such new line be a trunk, branch, or junction line, and whether such new line be constructed by a new company incorporated for the purpose or by any existing company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said railway, upon the average of the three then last preceding years, shall equal or exceed the rate of ten pounds for every hundred pounds of such paid-up capital stock, it shall be lawful for the lords commissioners of her Majesty's treasury, subject to the provisions hereinafter contained, upon giving to the said company three calendar months' notice in writing of their intention so to do, to revise the scale of tolls, fares, and charges limited by the act or acts relating to the said railway, and to fix such new scale of tolls, fares, and charges applicable to such different classes and kinds of passengers, goods, and other traffic on such railway, as in the judgment of the said lords commissioners, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of ten pounds in the hundred : provided always, that no such revised scale shall take effect, unless accompanied by a guarantee to subsist as long as any such revised scale of tolls, fares, and charges shall be in force, that the

Preamble.

Options of revision and purchase.

Treasury may revise the scale of tolls of future railways, and fix a new scale.

Proviso.

*Options of
revision
and pur-
chase.*

said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of ten pounds for every hundred pounds of such capital stock : provided also, that such revised scale shall not be again revised or such guarantee withdrawn, otherwise than with the consent of the company, for the further period of twenty-one years.

*Treasury
may pur-
chase
future rail-
ways.*

2. And be it enacted, That whatever may be the rate of divisible profits on any such railway, it shall be lawful for the said lords commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of her Majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years : provided that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said company : provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares, and charges shall be in force.

Proviso

Proviso

*Options not
to be ap-
plied to ex-
isting rail-
ways.*

3. Provided always, and be it enacted, That the option of revision or purchase shall not be applied to any railway made or authorized to be made by any act previous to the present session ; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this act ; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

*Options not
to be exer-
cised by
treasury
until autho-
rized by
parliament.*

4. And whereas it is expedient that the policy of revision or purchase should in no manner be prejudged by the provisions of this act, but should remain for the future consideration of the legislature, upon grounds of general and national policy : and whereas it is not the intention of this act that under the said powers of revision or pur-

chase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies; be it enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by parliament, by an act or acts to be passed in that behalf, for authorizing the guarantee or the levy of the purchase money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of parliament unless it be recited in the preamble to such bill that three months' notice of the intention to apply to parliament for such powers has been given by the said lords commissioners to the company or companies to be affected thereby.

*Options of
revision
and pur-
chase.*

5. And be it enacted, That, from and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained, (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk, line, or other railways,) by the directors of the company to whom such railway belongs or by whom the same may be worked; and every such railway company shall once in every half year, during the said period of three years, cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said lords commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more directors of the said railway company, and shall send a copy of the said account to the said lords commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said lords commissioners, in each year; and it shall be lawful for the said lords commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said

*Companies
liable to the
options to
keep ac-
counts and
send copy
of balance-
sheet to the
Treasury.
[Amended
by 30 & 31
Vict. c. 101.]*

*Options of
revision and
purchase.*

period of three years ; and it shall be lawful for any person so authorised, at all reasonable times, upon producing his authority to examine the books, accounts, vouchers, and other documents of the company at the principal office or place of business of the company, and to take copies or extracts therefrom.

*Cheap
Trains.*

Company to
provide one
cheap train
each way
daily.

[Repealed
by 46 & 47
Vict. c. 34,
s. 10.]

6. And whereas it is expedient to secure to the poorer class of travellers the means of travelling by railway at moderate fares, and in carriages in which they may be protected from the weather ; be it enacted, That on and after the several days hereinafter specified all passenger railway companies which shall have been incorporated by any act of the present session, or which shall be hereafter incorporated, or which by any act of the present or any future session have obtained or shall obtain, directly or indirectly, any extension or amendment of the powers conferred on them respectively by their previous acts, or have been or shall be authorised to do any act unauthorised by the provisions of such previous acts, shall, by means of one train at the least to travel along their railway from one end to the other of each trunk, branch, or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week-day, except Christmas-day and Good Friday (such exceptions not to extend to Scotland), provide for the conveyance of third-class passengers to and from the terminal and other ordinary passenger stations of the railway, under the obligations contained in their several acts of parliament, and with the immunities applicable by law to carriers of passengers by railway ; and also under the following conditions ; (that is to say,)

*Hours of
starting.*

Such train shall start at an hour to be from time to time fixed by the directors, subject to the approval of the lords of the committee of privy council for trade and plantations :

*Rate of
speed.*

Such train shall travel at an average rate of speed not less than twelve miles an hour for the whole distance travelled on the railway, including stoppages :

Stoppages.

Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line :

Carriages.

The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather, in a manner satisfactory to the lords of the said committee :

Fares.
[See 21 & 22
Vict. c. 75,
s. 1.]

The fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled :

Each passenger by such train shall be allowed to take with him half a hundred weight of luggage, not being merchandize or other articles carried for hire or profit, without extra charge; and any excess of luggage shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains:

*Cheap
Trains.
Luggage.*

Children under three years of age accompanying passengers by such train shall be taken without any charge, and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger:

Children.

And with respect to all railways subject to these obligations which shall be open on or before the first day of November next, these obligations shall come into force on the said first day of November; and with respect to all other railways subject to these obligations, they shall come into force on the day of opening of the railway, or the day after the last day of the session in which the act shall be passed by reason of which the company will become subject thereunto, which shall first happen.

*When these
obligations
to com-
mence.*

7. And it be enacted, That if any railway company shall refuse or wilfully neglect to comply with the provisions of this act as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such company shall forfeit to her Majesty a sum not exceeding twenty pounds for every day during which such refusal, neglect, or evasion shall continue.

*Penalty for
non-com-
pliance.
[Repealed
by 46 & 47
Vict. c. 34,
s. 10.]*

8. Provided always, and be it enacted, That except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the lords of the said committee shall have a discretionary power, upon the application of any railway company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid, in consideration of such other arrangements, either in regard to speed, covering from the weather, seats, or other particulars, as to the lords of the said committee shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by them accordingly; and any railway company which shall conform to such other conditions as shall be so sanctioned by the lords of the said committee shall not be liable to any penalty for not observing the conditions which shall have been so dispensed with by the lords of the said committee in regard to the said cheap trains and the passengers conveyed thereby.

*Board of
Trade may
dispense
with condi-
tions here-
inbefore
required in
considera-
tion of other
arrange-
ments more
beneficial.
[Repealed
by 46 & 47
Vict. c. 34,
s. 10.]*

9. And be it enacted, That no tax shall be levied upon

No passen-

ger tax on
cheap
trains.

Amended
by 26 & 27
Vict. c. 23,
s. 14.

If company
run trains
on sundays,
cheap trains
to be like-
wise pro-
vided.

[Repealed
by 46 & 47
Vict. c. 34,
s. 10.]

the receipts of any railway company from the conveyance of passengers at fares not exceeding one penny for each mile by any such cheap train as aforesaid.

10. And be it enacted, That whenever any railway company subject to the hereinbefore mentioned obligation of running cheap trains shall, from and after the days hereinbefore specified on which the said obligation is to accrue, run any train or trains on Sundays for the conveyance of passengers, it shall, under the obligations contained in its act or acts of parliament, and with the immunities applicable by law to carriers of passengers by railway, by such train each way, on every Sunday, as shall stop at the greatest number of stations, provide sufficient carriages for the conveyance of third-class passengers at the terminal and other stations at which such Sunday train may ordinarily stop; and the fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled.

Convey-
ance of
mails.

See 1 & 2
Vist. c. 98.

Rate of
speed.

Mails by
trains other
than a mail
train.

Conveyance
of military
and police.

11. And whereas by an act passed in the second year of the reign of her Majesty, intituled "An act to provide for the conveyance of the Mails by Railways," provision was made for the transmission of the mails by railway, and it is expedient that such provision should be extended: be it enacted, That it shall be lawful for the Postmaster-General to require, in the manner and subject to the conditions as to payment for service performed prescribed by the said act, that the mails be forwarded upon any such railway as is hereinbefore last mentioned at any rate of speed which the inspector-general of railways for the time being shall certify to be safe, not exceeding twenty-seven miles in the hour including stoppages; and it shall be also lawful for the Postmaster-General to send any mail guard with bags not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the company for any excess of that weight) by any trains other than a mail train, upon the same conditions as any other passenger; provided that in such last-mentioned case nothing herein or in the last-recited act contained shall be construed to authorize the Postmaster-General to require the conversion of a regular mail train into an ordinary train, or to exercise any control over the company in respect of any ordinary train, nor shall the company be responsible for the safe custody or delivery of any mail bags so sent.

12. And whereas by an act passed in the sixth year of the reign of her Majesty, intituled "An Act for the better regulation of Railways, and for the conveyance of Troops," it was among other things enacted, that whenever it shall be necessary to move any of the officers or soldiers of her

Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessities and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities; and whereas it is expedient to amend such provision in regard to the prices and conditions of conveyance by any new railway or any railway obtaining new powers from parliament; be it enacted, That all railway companies which have been or shall be incorporated by any act of the present or any future session, or which, by any act of the present or any future session shall have obtained or shall obtain any extension or amendment of the powers conferred by their previous acts or any of them, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall be bound to provide such conveyance as aforesaid for the said military, marine, and police forces, at fares not exceeding twopence per mile for each commissioned officer proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding one penny for each mile for each soldier, marine, or private of the militia or police force, and also for each wife, widow, or child above twelve years of age of a soldier entitled by act of parliament or by competent authority to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge. and children of three years or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such soldiers, marines, and privates of the militia or police force, and their wives, widows, and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided that every officer conveyed shall be entitled to take with him one hundred weight of personal luggage without extra charge, and every soldier, marine, private, wife, or widow shall be entitled to take with him or her half a hundred weight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than one halfpenny per pound, and all public baggage, stores, arms, ammunition, and other necessities and things, (except

Conveyance of military and police.

See 5 & 6 Vict. c. 55, s. 20.
 "Secretary of State for War." see 26 Vict. c. 12.
 Prices and conditions of conveyance.
 [Repealed by 46 & 47 Vict. c. 34, s. 10.]

By the entry of seamen Act, 16 & 17 Vict. c. 69, s. 18, naval forces are to be conveyed upon the same terms as military and police.

Carriages to be provided with seats and protected against the weather.
 See 30 & 31 Vict. c. 110, s. 16, as to conveyance of Reserve Force.

*Conveyance
of military
and police.*
—

gunpowder and other combustible matters, which the company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the secretary at war and the company,) shall be conveyed at charges not exceeding twopence per ton per mile, the assistance of the military or other forces being given in loading and unloading such goods.

*Electrical
Tele-
graphs.*
—

*Company to
allow lines
to be esta-
blished.*

13. And whereas electrical telegraphs have been established on certain railways, and may be more extensively established hereafter, and it is expedient to provide for their due regulation; be it enacted, That every railway company, on being required so to do by the lords of the said committee, shall be bound to allow any person or persons authorized by the lords of the said committee, with servants and workmen, at all reasonable times to enter into or upon their lands, and to establish and lay down upon such lands adjoining the line of such railway a line of electrical telegraph for her Majesty's service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending messages on her Majesty's service, subject to such reasonable remuneration to the company as may be agreed upon between the company and the lords of the said committee, or, in case of disagreement, as may be settled by arbitration: provided always, that, subject to a prior right of use thereof for the purposes of her Majesty, such telegraph may be used by the company for the purposes of the railway, upon such terms as may be agreed upon between the parties, or, in the event of difference, as may be settled by arbitration.

*Lines esta-
blished by
private par-
ties to be
open to the
public.*

14. And be it enacted, That where a line of electrical telegraph shall have been established upon any railway by the company to whom such railway belongs, or by any company, partnership, person or persons, otherwise than exclusively for her Majesty's service, or exclusively for the purposes of the railway, or jointly for both, the use of such electrical telegraph, for the purpose of receiving and sending messages, shall, subject to the prior right of use thereof for the service of her Majesty and for the purposes of the company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said railway company, be open for the sending and receiving of messages by all persons alike, without favour or preference.

*Inspectors
of rail-
ways.*

15. *And whereas by an act passed in the fourth year of the reign of her Majesty, intituled "An Act to regulate Railways," power is given to the lords of the said committee to appoint any proper person or persons to inspect*

any railway, and the stations, works and buildings, and the engines and carriages belonging thereto; and in order to carry the provisions of this act into execution it is expedient that the said power be extended; be it enacted, That the said power given to the lords of the said committee of appointing proper persons to inspect railways shall extend to authorize the appointment by the lords of the said committee of any proper person or persons, for such purposes of inspection as are by the said act authorized, and also for the purpose of enabling the lords of the said committee to carry the provisions of this and of the said act, and of any general act relating to railways, into execution; and that so much of the last-recited act as provides that no person shall be eligible to the appointment as inspector who shall, within one year of his appointment, have been a director, or have held any office of trust or profit under any railway company, shall be repealed; provided always, that no person to be appointed as aforesaid shall exercise any powers of interference in the affairs of the company.

Inspectors of railways.

See 3 & 4 Vict. c. 97, s. 5.

Extension of power of appointment of, by Board of Trade.

Repeal of proviso to 3 & 4 Vict. c. 97, s. 5.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

16. And whereas by the said act of the fourth year of the reign of her Majesty, intituled "An act for regulating Railways," it is among other things enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway companies, or the provisions of that act, have not been complied with on the part of any of the said companies or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding (as the case may require) proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same; and whereas it is expedient that more effectual provision should be made, not only for enforcing a compliance on the part of railway companies with the provisions of their acts, but also for restraining

Prosecutions to enforce provisions of railway acts.

Repeal of 3 & 4 Vict. c. 97, s. 11.

[Repealed by 34 & 35 Vict. c. 78, s. 17.]

Prosecutions to enforce provisions of railway acts.

railway companies from performing acts unauthorized by such provisions; be it enacted, That so much of the said act as is hereinbefore recited shall be repealed.

may be directed by the Board of Trade,

In cases of non-compliance with provisions of acts.

In cases of commission of acts unauthorized by law.

Notice of, to be given to the company.

17. And be it enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway company, or the provisions of this act or of any general act relating to railways, have not been complied with on the part of any railway company or any of its officers, or that any railway company has acted or is acting in a manner unauthorized by the provisions of the act or acts of parliament relating to such railway, or in excess of the powers given and objects defined by the said act or acts, and it shall also appear to the lords of the said committee that it would be for the public advantage that the company should be restrained from so acting, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, in case such default of the railway company shall consist of non-compliance with the provisions of the act or acts relating thereto, or of this act, or of any general act relating to railways, proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; and in case the default of the railway company shall consist in the commission of some act or acts unauthorized by law, then the said attorney-general or lord-advocate, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity or other judge to whom the application is made shall be authorized and required to grant, if he shall be of opinion that the act or acts of the railway company complained of is or are not authorized by law,) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

18. Provided always, and be it enacted, That no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and that no legal pro-

ceedings shall be commenced under the authority of the Prosecutors of the said committee against any railway company for any offence against any of the several acts relating to railways, or this act, or any general act relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed. tions to be within one year after the offence.

19. And whereas many railway companies have borrowed money in a manner unauthorized by their acts of incorporation or other acts of parliament relating to the said companies, upon the security of loan notes or other instruments purporting to give a security for the repayment of the principal sums borrowed at certain dates, and for the payment of interest thereon in the meantime: and whereas such loan notes or other securities issued otherwise than under the provision of some act or acts of parliament have no legal validity, and it is expedient that the issue of such illegal securities should be stopped; but such loan notes or other securities having been issued and received in good faith as between the borrower and lender, and for the most part for the lawful purposes of the undertaking, and in ignorance of their legal invalidity, it is expedient to confirm such as have been already issued; be it enacted, That from and after the passing of this act any railway company issuing any loan note or other negotiable or assignable instrument purporting to bind the company as a legal security for money advanced to the said railway company otherwise than under the provisions of some act or acts of parliament authorizing the said railway company to raise such money and to issue such security, shall for every such offence forfeit to her Majesty a sum equal to the sum for which such loan note or other instrument purports to be such security: provided always, that any company may renew any such loan note or other instrument issued by them prior to the passing of this act for any period or periods not exceeding five years from the passing of this act. Loan Notes. — Issue of, prohibited in future. Already issued may be renewed.

20. And be it enacted, That where any railway company before the twelfth day of July one thousand eight hundred and forty-four, shall have issued or contracted to issue any such loan notes or other unauthorized instruments, the company may and shall pay off such loan notes or other instruments as the same may fall due, subject as hereinbefore provided; and until the same shall be so paid off the said loan notes or other instruments shall entitle the holders thereof to the payment by the company of the principal sum and interest thereby agreed to be paid. Already issued to be paid when due.

21. And be it enacted, That a register of all such loan notes or other instruments shall be kept by the secretary; to be kept. Register of to be kept.

Loan. *Notes.* and such register shall be open, without fee or reward, at all reasonable times, to the inspection of any shareholder or auditor of the undertaking, and of every person interested in any such loan note or other instrument, desirous of inspecting the same.

Tithe Rent. 22. And whereas the remedies now in force for the recovery of tithe commutation rent-charges are in many instances ineffectual for such parts thereof as are charged upon lands taken for the purposes of a railway, and it is therefore expedient to extend the said remedies when the said rent-charges may have been duly apportioned; be it enacted, That in all cases in which any such rent-charge, or part of any rent-charge, has been or hereafter shall be duly apportioned under the provisions of the acts for the commutation of tithes in England and Wales, upon lands taken or purchased by any railway company for the purposes of such company, or upon any part of such lands, it shall be lawful for every person entitled to the said rent-charge or parts of such rent-charge, in case the same has been or shall be in arrear and unpaid for the space of twenty-one days next after any half-yearly day fixed for the payment thereof, to distrain for all arrears of the said rent-charge upon the goods, chattels, and effects of the said company, whether on the land charged therewith, or any other lands, premises, or hereditaments of such company, whether situated in the same parish or elsewhere, and to dispose of the distress when taken, and otherwise to demean himself in relation thereto, as any landlord may for arrears of rent reserved on a lease for years: provided always, that nothing herein contained shall give or be construed to give a legal right to such rent-charge, when but for this act such rent-charge was not or could not be duly apportioned.

Proviso.

Service of notices,

[Repealed by 31 & 32 Vict. c. 119, s. 47, & sch. 2.]

can com-
pany.

23. And be it enacted, That all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by some officer appointed for that purpose by the lords of the said committee, shall for the purposes of this act be deemed to have been made by the lords of the said committee; and all certificates of any thing done by the lords of the said committee in relation to this act, and certified copies of the minutes of proceedings or correspondence of the lords of the said committee in relation thereto, signed by such officer, shall be deemed sufficient evidence thereof, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto, and service of the same at one of the principal offices of any railway company on the secretary or clerk of the said company, or by sending the same

by post, addressed to him at such office, shall be deemed good service upon the said company; and all notices, returns, and other documents required by this act to be given to or laid before the lords of the said committee, shall be delivered at or sent by post addressed to the office of the lords of the said committee.

Services of notices,
——
to Board of Trade.

24. And be it enacted, That all penalties under this act for the application of which no special provision is made shall be recovered in the name and for the use of her Majesty, and may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriff courts in Scotland.

Recovery of penalties.

25. And be it enacted, That where the word "railway" is used in this act it shall be construed to extend to railways constructed under the powers of any act of parliament; and when the words "passenger railway" are used in this act, they shall be construed to extend to railways constructed under the powers of any act of parliament upon which one-third or more of the gross annual revenue is derived from the conveyance of passengers by steam or other mechanical power; and whenever the word "company" is used in this act it shall be construed to extend to include the proprietors for the time being of any such railway; and that where a different sense is not expressly declared, or does not appear by the context, every word importing the singular number or the masculine gender shall be taken to include females as well as males, and several persons and things as well as one person or thing.

Interpretation of words.
——
"Railway."
"Passenger Railway."
"Company"

26. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of parliament.

Act may be amended or repealed.

COMPANIES CLAUSES, 1845.

8 VICT. cap. 16. An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature. [8th May 1845.]

WHEREAS it is expedient to comprise in one general act sundry provisions relating to the constitution and management of joint stock companies, usually introduced into acts of parliament authorizing the execution of undertakings of a public nature by such companies, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves.

Preamble
See also 36
& 37 Vict.
c. 118.

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every joint stock company which shall by any act which shall hereafter be passed be incorporated for the purpose of carrying on any undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the company which shall be incorporated by such act. and to the undertaking for carrying on

Act to apply to all companies incorporated by acts hereafter to be passed.

8 VICT.
CAP. 16.

which such company shall be incorporated, so far as the same shall be applicable thereto respectively; and such clauses and provisions, as well as the clauses and provisions of every other act which shall be incorporated with such act, shall, save as aforesaid, form part of such act, and be construed together therewith as forming one act.

INTERPRE-
TATIONS IN
THIS ACT.

2. And with respect to the construction of this act, and of other acts to be incorporated therewith, be it enacted as follows:—

"The special
act."

The expression "the special act" used in this act shall be construed to mean any act which shall be hereafter passed incorporating a joint stock company for the purpose of carrying on any undertaking, and with which this act shall be so incorporated as aforesaid; and the word "prescribed" used in this act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special act be authorized to be executed.

"Prescribed
ed.""The under-
taking."INTERPRETA-
TIONS IN
THIS AND
THE SPECIAL
ACT

3. The following words and expressions both in this and the special act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,)

Number.

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number:

Gender.

Words importing the masculine gender only shall include females:

"Lands."

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:

"Lease."

The word "lease" shall include an agreement for a lease

"Month."

The word "month" shall mean calendar month:

"Superior
Courts."

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

"Oath."

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons, exempted by law from the necessity of taking an oath:

"County."

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town.

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions:

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CAP. 16.

"Justico."

"Two justices."

The expression "the company" shall mean the company constituted by the special act:

"The company."

The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name:

"Directors."

The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to apply to a corporation: and

"Shareholders."

The expression "the secretary" shall mean the secretary of the company, and shall include the word "clerk."

"Secretary."

4. And be it enacted, That in citing this act in other acts of parliament and in legal instruments it shall be sufficient to use the expression "The Companies' Clauses Consolidation Act, 1845."

Short title of the act.

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That for the purpose of making any such incorporation it shall be sufficient in any such act to enact that the clauses and provisions of this act, with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter), shall be incorporated with such act; and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

Form in which portions of this act may be incorporated with other acts.

And with respect to the distribution of the capital of the company into shares, be it enacted as follows:

DISTRIBUTION OF CAPITAL.

6. The capital of the company shall be divided into shares of the prescribed number and amount; and such shares shall be numbered in arithmetical progression,

Capital to be divided into shares.

8 VICT.
CAP. 16.

Shares to be
personal
estate.

Share-
holders.

Register of
sharehold-
ers.

Sharehold-
ers' address
book.

Certificates
of shares to
be issued to
the share-
holders.

beginning with number one; and every such share shall be distinguished by its appropriate number.

7. All shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

8. Every person who shall have subscribed the prescribed sum or upwards to the capital of the company, or shall otherwise have become entitled to a share in the company, and whose name shall have been entered on the register of shareholders hereinafter mentioned, shall be deemed a shareholder of the company.

9. The company shall keep a book, to be called the "register of shareholders;" and in such book shall be fairly and distinctly entered, from time to time, the names of the several corporations, and the names and additions of the several persons entitled to shares in the company, together with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said shareholders shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the company, and so from time to time at each ordinary meeting of the company.

10. In addition to the said register of shareholders, the company shall provide a book, to be called the "shareholders' address-book," in which the secretary shall from time to time enter, in alphabetical order, the corporate names and places of business of the several shareholders of the company, being corporations, and the surnames of the several other shareholders with their respective christian names, places of abode, and descriptions, so far as the same shall be known to the company; and every shareholder, or if such shareholder be a corporation the clerk or agent of such corporation, may at all convenient times peruse such book gratis, and may require a copy thereof or of any part thereof; and for every hundred words so required to be copied, the company may demand a sum not exceeding sixpence.

11. On demand of the holder of any share the company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder; and such certificate shall have the common seal of the company affixed thereto; and such certificate shall specify the share in the undertaking to which such shareholder is entitled;

and the same may be according to the form in the schedule (A.) to this act annexed, or to the like effect; and for such certificate the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

8 VICT.
CAP. 16.

12. The said certificate shall be admitted in all courts as *prima facie* evidence of the title of such shareholder, his executors, administrators, successors, or assigns, to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate
to be evi-
dence.

13. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the directors, such directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the secretary in the register of shareholders; and for every such certificate so given or exchanged the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

Certificate
to be re-
newed when
lost or de-
stroyed.

And with respect to the transfer or transmission of shares, be it enacted as follows:

TRANSFER
OF SHARES.

14. Subject to the regulations herein or in the special act contained, every shareholder may sell and transfer all or any of his shares in the undertaking, or all or any part of his interest in the capital stock of the company, in case such shares shall, under the provision hereinafter contained, be consolidated into capital stock; and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated; and such deed may be according to the form in the schedule (B.) to this act annexed, or to the like effect.

Sharehold-
ers may
transfer
shares by
deed.

15. The said deed of transfer (when duly executed) shall be delivered to the secretary, and be kept by him; and the secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of transfer, and shall, on demand, deliver a new certificate to the purchaser; and for every such entry, together with such endorsement and certificate, the company may demand any sum not exceeding

Memorials
of transfer
to be enter-
ed in regi-
ster of trans-
fers.

8 VIOT.
CAP. 16.

Until registered, vendor liable for calls. Purchaser not entitled to profits.

Transfer not to be made until calls paid.

Closing of transfer books.

Notice.

Transmission of shares by other means than transfer to be authenticated by a declaration.

Entry in register of shareholders.

the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence; and on the request of the purchaser of any share an endorsement of such transfer shall be made on the certificate of such share, instead of a new certificate being granted; and such endorsement, being signed by the secretary, shall be considered in every respect the same as a new certificate; and until such transfer has been so delivered to the secretary as aforesaid the vendor of the share shall continue liable to the company for any calls that may be made upon such share, and the purchaser of the share shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such share.

16. No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he shall have paid such call, nor until he shall have paid all calls for the time being due on every share held by him.

17. It shall be lawful for the directors to close the register of transfers for the prescribed period, or if no period be prescribed, then for a period not exceeding fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after mentioned; and any transfer made during the time when the transfer books are so closed shall, as between the company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

18. If the interest in any share have become transmitted in consequence of the death or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this or the special act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the directors shall require; and every such declaration shall state the manner in which and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a justice, or before a master or master extraordinary of the high court of chancery; and such declaration shall be left with the secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register of shareholders; and for every such entry the company may demand any sum not exceeding the prescribed amount, and where no amount shall

be prescribed, then not exceeding five shillings; and until such transmission has been so authenticated no person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the undertaking, nor to vote in respect of any such share as the holder thereof.

8 VICT.
CAP. 16.

Until authenticated not entitled to profits.

19. If such transmission be by virtue of the marriage of a female shareholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the secretary; and upon such production in either of the cases aforesaid the secretary shall make an entry of the declaration in the said register of transfers.

Transmission by marriage, will, &c., to be proved by production of register or probate.

[As to shares in respect of money advanced on security of land, for construction of railways or canals, see 27 & 28 Vict. c. 114, ss. 84 to 89.]

20. The company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject; and the receipt of the party in whose name any such share shall stand in the books of the company, or if it stands in the names of more parties than one, the receipt of one of the parties named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the company have had notice of such trusts; and the company shall not be bound to see to the application of the money paid upon such receipt.

Company not bound to regard trusts.

Receipt of party named in register of shareholders a sufficient discharge.

And with respect to the payment of subscriptions and the means of enforcing the payment of calls, be it enacted as follows:

PAYMENT OF
CALLS.

21. The several persons who have subscribed any money towards the undertaking, or their legal representatives, respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the company, at such times and places as shall be appointed by the company; and with respect to the provisions herein or in the special act contained for enforcing the payment of calls, the word "shareholder" shall extend to and include the legal personal representatives of such shareholder.

Subscriptions to be paid when called for.

22. It shall be lawful for the company from time to

Power to make calls.

8 VICT.
CAP. 16.

Notice.

Interval.

Prescribed
amount.

Interest to
be paid on
calls unpaid.

Interest may
be allowed
on payment
of subscrip-
tions before
call.

Payment of
calls may
be enforced
by action.

Declaration
in action
for calls.

time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall think fit, provided that twenty-one days' notice at the least be given of each call, and that no call exceed the prescribed amount, if any, and that successive calls be not made at less than the prescribed interval, if any, and that the aggregate amount of calls made in any one year do not exceed the prescribed amount, if any; and every shareholder shall be liable to pay the amount of the calls so made, in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the company.

23. If, before or on the day appointed for payment, any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.

24. It shall be lawful for the company, if they think fit, to receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the company shall agree upon.

25. If at the time appointed by the company for the payment of any call any shareholder fail to pay the amount of such call, it shall be lawful for the company to sue such shareholder for the amount thereof, in any court of law or equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.

26. In any action or suit to be brought by the company against any shareholder to recover any money due for any call it shall not be necessary to set forth the special matter, but it shall be sufficient for the company to declare that the defendant is the holder of one share or more in the company (stating the number of shares), and is indebted to the company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls), whereby an action hath accrued to the company by virtue of this and the special act.

27. On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was a holder of one share or more in the undertaking, and that such call was in fact made, and such notice thereof given as is directed by this or the special act; and it shall not be necessary to prove the appointment of the directors who made such call, nor any other matter whatsoever; and thereupon the company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed, or that calls amounting to more than the sum prescribed for the total amount of calls in one year had been made within that period.

8 VICT.
CAP. 16.

Matters to
be proved
in action for
calls.

28. The production of the register of shareholders shall be *prima facie* evidence of such defendant being a shareholder, and of the number and amount of his shares.

Register to
be evidence.

And with respect to the forfeiture of shares for non-payment of calls, be it enacted as follows:

FORFEITURE
OF SHARES.

29. If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the directors at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable forfeited, and that whether the company have sued for the amount of such call or not.

If calls un-
paid for two
months,
shares may
be declared
forfeited.

30. Before declaring any share forfeited, the directors shall cause notice of such intention to be left at or transmitted by the post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share; and if the holder of any such share be abroad, or if his usual or last place of abode be not known to the directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise, or if the interest in any such share shall be known by the directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted, or may for the time being belong, shall not be known to the directors, the directors shall give public notice of such intention in the London or Dublin Gazette, according as the company's principal place of business shall be situate in England or Ireland, and also in some newspaper, as after mentioned; and the several notices aforesaid shall be given twenty-one

Notice of
forfeiture to
be given
before de-
claration
thereof.

8 VICT.
CAP. 16.

Declaration
of forfeiture
to be con-
firmed by a
general
meeting.

Forfeited
shares may
be sold.

Evidence as
to forfeiture
of shares.

Declaration
and receipt
a good title
to the pur-
chaser.

No more
shares to be
sold than
sufficient to
pay calls,
interest, and
expenses.

days at least before the directors shall make such declaration of forfeiture.

31. The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration have been confirmed at some general meeting of the company to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given; and it shall be lawful for the company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of.

32. After such confirmation as aforesaid it shall be lawful for the directors to sell the forfeited share, either by public auction or private contract, and if there be more than one such forfeited share, then either separately or together, as to them shall seem fit; and any shareholder may purchase any forfeited share so sold.

33. A declaration in writing, by some credible person not interested in the matter, made before any justice, or before any master or master extraordinary of the high court of chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the treasurer of the company for the price of such share, shall constitute a good title to such share; and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase; and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

34. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale

thereof, the surplus shall, on demand, be paid to the defaulter.

8 VIOU.
CAP. 18.

35. If payment of such arrears of calls and interest and expenses be made before any share so forfeited and vested in the company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

On payment
of calls be-
fore sale,
shares to
revert.

And with respect to the remedies of creditors of the company against the shareholders, be it enacted as follows:

REMEDIES
AGAINST
SHAREHOLD-
ERS.

36. If any execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the shareholders to the extent of their shares respectively in the capital of the company not then paid up: provided always, that no such execution shall issue against any shareholder except upon an order of the court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court after sufficient notice in writing to the persons sought to be charged; and upon such motion such court may order execution to issue accordingly; and for the purpose of ascertaining the names of the shareholders, and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the "Register of Shareholders" without fee.

Execution
may be is-
sued to the
extent of
shares in
capital not
paid up.

Notice.

Inspection
of register
of share-
holders.

37. If by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls, he shall forthwith be reimbursed such additional sum by the directors out of the funds of the company.

Reimburse-
ment of
sharehold-
ers.

And with respect to the borrowing of money by the company on mortgage or bond, be it enacted as follows:

BORROWING
OF MONEY.

38. If the company be authorized by the special act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special act, to borrow on mortgage or bond such sums of money as shall, from time to time, by an order of a general meeting of the company, be authorized to be borrowed, not exceeding in the whole the sum prescribed by the special act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.

Company
may borrow
such sums
as shall be
authorized
by a general
meeting.

8 VIOT.
CAP. 16.

If borrowed money be repaid, company may again borrow.

Evidence of authority for borrowing.

Certificate of justice.

Order of general meeting.

Mortgages and bonds to be by deed.

Form.

Mortgagees entitled to proportions of tolls, &c. without preference.

Mortgage not to preclude receipt of calls.

Obligees in bonds entitled to proportion

39. If, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

40. Where by the special act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorizing the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

41. Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the schedule (C.) or (D.) to this act annexed, or to the like effect.

42. The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums, and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized.

43. No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company.

44. The respective obligees in such bonds shall, proportionally according to the amount of the monies secured thereby, be entitled to be paid, out of the tolls or other

property or effects of the company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

8 VICT.
CAP. 16.

of tolls, &c.,
without
preference.

45. A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward.

Register of
mortgages
and bonds
to be kept.

Inspection.

46. Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the schedule (E.) to this act annexed, or to the like effect.

Transfers
of mort-
gages and
bonds to be
by deed.

Form.

47. Within thirty days after the date of every such transfer, if executed within the united kingdom, or otherwise within thirty days after the arrival thereof in the united kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party, having made such transfer, shall have power to make void, release, or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage.

Transfers of
mortgages
and bonds
to be regis-
tered.

Fee.

48. The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the company.

Payment of
interest on
monies bor-
rowed.

8 VICT.
CAP. 16.

Transfers of
Interest.
Money bor-
rowed to be
repaid at
time fixed.

Place of pay-
ment.

If no time
fixed, money
borrowed to
be repaid at
six months'
notice.

Notice by
company.

Notice to
company.

Interest to
cease on
expiration
of notice to
pay off
mortgage or
bond.

Arrears of
interest,
when to be
enforced by
appoint-
ment of a
receiver.

49. The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

50. The company may, if they think proper, fix a period for the repayment of the principal money so borrowed with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

51. If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper as after mentioned.

52. If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

53. Where by the special act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and, after demand thereof in writing, the same be not paid,

the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided; and if within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or if his debt does not amount to the prescribed sum, he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

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CAP. 16.

Arrears of
principal
and inter-
est.

Joint mort-
gages.

54. Every application for a receiver in the cases aforesaid shall be made to two justices, and on any such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made, all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Receiver to
be appoint-
ed by two
justices.

Tolls, &c.
to be paid to
receiver.

When
power of
receiver to
cease.

55. At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom without fee or reward.

Access to
books by
mortgagees

And with respect to the conversion of the borrowed money into capital, be it enacted as follows:—

CONVERSION
OF BORROW-
ED MONEY
INTO CAPITAL.

56. It shall be lawful for the company, if they think fit, unless it be otherwise provided by the special act, to raise the additional sum so authorized to be borrowed, or any part thereof, by creating new shares of the company, instead of borrowing the same, or, having borrowed the same, to continue at interest only a part of such additional sum, and to raise part thereof by creating new shares;

Sum autho-
rized to be
borrowed
may be
raised by
creating
new shares

8 VICT.
CAP. 16.

New shares
to be sub-
ject to same
provisions
as original
shares.

but no such augmentation of capital as aforesaid shall take place without the previous authority of a general meeting of the company.

57. The capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on nonpayment of calls, or otherwise as if it had been part of the original capital, except as to the times of making calls for such additional capital, and the amount of such calls, which respectively it shall be lawful for the company from time to time to fix as they shall think fit.

If old shares
at premium,
new shares
to be offered
to the share-
holders.

58. If at the time of any such augmentation of capital taking place by the creation of new shares the then existing shares be at a premium, or of greater actual value than the nominal value thereof, then, unless it be otherwise provided by the special act, the sum so to be raised shall be divided into shares of such amount as will conveniently allow the same to be apportioned among the then shareholders in proportion to the existing shares held by them respectively; and such new shares shall be offered to the then shareholders in the proportion aforesaid; and such offer shall be made by letter under the hand of the secretary given to or sent by post, addressed to each shareholder according to his address in the shareholders' address-book, or left at his usual or last place of abode.

Shares to
vest in the
parties ac-
cepting;
otherwise
to be dis-
posed of by
the direc-
tors.

59. The said new shares shall vest in and belong to the shareholders who shall accept the same, and pay the value thereof to the company at the time and by the instalments which shall be fixed by the company; and if any shareholder fail for one month after such offer of new shares to accept the same, and pay the instalments called for in respect thereof, it shall be lawful for the company to dispose of such shares in such manner as they shall deem most for the advantage of the company.

If not at a
premium, to
be issued as
company
think fit.

60. If at the time of such augmentation of capital taking place the existing shares be not at a premium, then such new shares may be of such amount, and may be issued in such manner, and on such terms, as the company shall think fit.

CONSOLIDA-
TION OF
SHARES.

And with respect to the consolidation of the shares into stock, be it enacted as follows:

Company
may consoli-
date
shares into
stock.

61. It shall be lawful for the company from time to time, with the consent of three-fifths of the votes of the shareholders present in person, or by proxy, at any general meeting of the company, when due notice for that purpose shall have been given, to convert or consolidate all or any part of the shares then existing in the capital of the

company, and in respect whereof the whole money subscribed shall have been paid up, into a general capital stock, to be divided amongst the shareholders according to their respective interests therein.

8 Vic.
CAP. 16.

62. After such conversion or consolidation shall have taken place, all the provisions contained in this or the special act which require or imply that the capital of the company shall be divided into shares of any fixed amount, and distinguished by numbers, shall, as to so much of the capital as shall have been so converted or consolidated into stock, cease and be of no effect, and the several holders of such stock may thenceforth transfer their respective interests therein, or any parts of such interests, in the same manner and subject to the same regulations and provisions as or according to which any shares in the capital of the company might be transferred under the provisions of this or the special act; and the company shall cause an entry to be made in some book to be kept for that purpose, of every such transfer; and for every such entry they may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, a sum not exceeding two shillings and sixpence.

After consolidation, provisions requiring capital to be divided into shares to cease.

Transfer of stock.

Register of transfer.

Fee.

63. The company shall from time to time cause the names of the several parties who may be interested in any such stock as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for the purpose, and to be called "The Register of Holders of Consolidated Stock;" and such book shall be accessible at all seasonable times to the several holders of shares or stock in the undertaking.

Register of holders of consolidated stock to be kept.

Inspection.

64. The several holders of such stock shall be entitled to participate in the dividends and profits of the company, according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages, for the purpose of voting at meetings of the company, qualification for the office of directors, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company, but so that none of such privileges or advantages, except the participation in the dividends and profits of the company shall be conferred by any aliquot part of such amount of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages respectively.

Proprietors of stock entitled to dividends,

and same privileges as conferred by shares of equal amount.

65. And be it enacted, That all the money raised by the company, whether by subscriptions of the shareholders, or by loan or otherwise, shall be applied, firstly, in paying the costs and expenses incurred in obtaining

APPLICA-
TION OF
CAPITAL

8 VIOT.
CAP. 18.

**GENERAL
MEETINGS.**

Ordinary
meetings to
be held half
yearly.

Place of
meeting.

Business at
ordinary
meetings.

Extraordi-
nary meet-
ings.

Notice of
business at.

Sharehold-
ers may re-
quire direc-
tors to call
extraordi-
nary meet-
ings.

Requisition
to state ob-
ject of meet-
ing.

On failure
of directors,
shareholders
may call
meeting.

the special act, and all expenses incident thereto, and, secondly, in carrying the purposes of the company into execution.

And with respect to the general meetings of the company, and the exercise of the right of voting by the shareholders, be it enacted as follows :

66. The first general meeting of the shareholders of the company shall be held within the prescribed time, or if no time be prescribed, within one month after the passing of the special act, and the future general meetings shall be held at the prescribed periods, and if no periods be prescribed, in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a general meeting ; and the meetings so appointed to be held as aforesaid shall be called "ordinary meetings;" and all meetings, whether ordinary or extraordinary, shall be held in the prescribed place, if any, and if no place be prescribed, then at some place to be appointed by the directors.

67. No matters, except such as are appointed by this or the special act to be done at an ordinary meeting, shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting.

68. Every general meeting of the shareholders, other than an ordinary meeting, shall be called an "extraordinary meeting;" and such meetings may be convened by the directors at such times as they think fit.

69. No extraordinary meeting shall enter upon any business not set forth in the notice upon which it shall have been convened.

70. It shall be lawful for the prescribed number of shareholders, holding in the aggregate shares to the prescribed amount, or, where the number of shareholders or amount of shares shall not be prescribed, it shall be lawful for twenty or more shareholders holding in the aggregate not less than one-tenth of the capital of the company, by writing under their hands, at any time to require the directors to call an extraordinary meeting of the company ; and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the company, or given to at least three directors, or left at their last or usual places of abode ; and forthwith upon the receipt of such requisition, the directors shall convene a meeting of the shareholders ; and if for twenty-one days after such notice the directors fail to call such meeting, the prescribed number, or such other number as aforesaid, of shareholders, qualified as aforesaid, may call such meeting, by giving fourteen days' public notice thereof.

71. Fourteen days' public notice at the least of all meetings, whether ordinary or extraordinary, shall be given by advertisement, which shall specify the place, the day, and the hour of meeting; and every notice of an extraordinary meeting, or of an ordinary meeting, if any other business than the business hereby or by the special act appointed for ordinary meetings is to be done thereat, shall specify the purpose for which the meeting is called.

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Notice of meetings to be given by advertisement.

72. In order to constitute a meeting (whether ordinary or extraordinary) there shall be present, either personally or by proxy, the prescribed quorum, and if no quorum be prescribed, then shareholders holding in the aggregate not less than one-twentieth of the capital of the company, and being in number not less than one for every five hundred pounds of such required proportion of capital, unless such number would be more than twenty, in which case twenty shareholders holding not less than one-twentieth of the capital of the company, shall be the quorum; and if within one hour from the time appointed for such meeting the said quorum be not present no business shall be transacted at the meeting, other than the declaring of a dividend, in case that shall be one of the objects of the meeting, but such meeting shall, except in the case of a meeting for the election of directors, hereinafter mentioned, be held to be adjourned "sine die."

Quorum for a general meeting.

If quorum not present, meeting to be adjourned.

73. At every meeting of the company one or other of the following persons shall preside as chairman; that is to say, the chairman of the directors, or in his absence the deputy chairman (if any), or in the absence of the chairman and deputy chairman some one of the directors of the company to be chosen for that purpose by the meeting, or in the absence of the chairman and deputy chairman and of all the directors, any shareholder to be chosen for that purpose by a majority of the shareholders present at such meeting.

Chairman at general meetings.

74. The shareholders present at any such meeting shall proceed in the execution of the powers of the company with respect to the matters for which such meeting shall have been convened, and those only; and every such meeting may be adjourned from time to time, and from place to place; and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Business at meetings and adjournments.

75. At all general meetings of the company every shareholder shall be entitled to vote according to the prescribed scale of voting, and where no scale shall be prescribed every shareholder shall have one vote for every share up to ten, and he shall have an additional vote for every five shares beyond the first ten shares held by him

Votes of shareholders.

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up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares: provided always, that no shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

Manner of
voting.

76. The votes may be given either personally or by proxies, being shareholders, authorized by writing according to the form in the schedule (F.) to this act annexed, or in a form to the like effect, under the hand of the shareholder nominating such proxy, or if such shareholder be a corporation, then under their common seal; and every proposition at any such meeting shall be determined by the majority of votes of the parties present, including proxies, the chairman of the meeting being entitled to vote, not only as a principal and proxy, but to have a casting vote if there be an equality of votes.

Regulations
as to proxies.

77. No person shall be entitled to vote as a proxy unless the instrument appointing such proxy have been transmitted to the secretary of the company the prescribed period, or, if no period be prescribed, not less than forty-eight hours before the time appointed for holding the meeting at which such proxy is to be used.

Votes of
joint share-
holders.

78. If several persons be jointly entitled to a share, the person whose name stands first in the register of shareholders as one of the holders of such share shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such first-named shareholder, either in person or by proxy, shall be allowed as the vote in respect of such share, without proof of the concurrence of the other holders thereof.

Votes of lunatics and minors, &c.

79. If any shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee; and if any shareholder be a minor he may vote by his guardian or any one of his guardians; and every such vote may be given either in person or by proxy.

Proof of a particular majority of votes only required in the event of a poll being demanded.

80. Whenever in this or the special act the consent of any particular majority of votes at any meeting of the company is required in order to authorize any proceeding of the company, such particular majority shall only be required to be proved in the event of a poll being demanded at such meeting; and if such poll be not demanded, then a declaration by the chairman that the resolution authorizing such proceeding has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient authority for such proceeding, without proof of the number or proportion of votes recorded in favour of or against the same.

And with respect to the appointment and rotation of directors, be it enacted as follows:

81. The number of directors shall be the prescribed number.

82. Where the company shall be authorized by the special act to increase or to reduce the number of the directors it shall be lawful for the company, from time to time, in general meeting, after due notice for that purpose, to increase or reduce the number of the directors within the prescribed limits, if any, and to determine the order of rotation in which such reduced or increased number shall go out of office, and what number shall be a quorum at their meetings.

83. The directors appointed by the special act shall, unless thereby otherwise provided, continue in office until the first ordinary meeting to be held in the year next after that in which the special act shall have passed; and at such meeting the shareholders present, personally or by proxy, may either continue in office the directors appointed by the special act, or any number of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by the special act being eligible as members of such new body, and at the first ordinary meeting to be held every year thereafter the shareholders present, personally or by proxy, shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions hereinafter contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, as hereinafter mentioned.

84. If at any meeting at which an election of directors ought to take place the prescribed quorum shall not be present within one hour from the time appointed for the meeting no election of directors shall be made, but such meeting shall stand adjourned till the following day at the same time and place; and if at the meeting so adjourned the prescribed quorum be not present within one hour from the time appointed for the meeting, the existing directors shall continue to act and retain their powers until new directors be appointed at the first ordinary meeting of the following year.

85. No person shall be capable of being a director unless he be a shareholder, nor unless he be possessed of the prescribed number, if any, of shares; and no person holding an office or place of trust or profit under the company, or interested in any contract with the company, shall be capable of being a director; and no director shall be capable

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APPOINTMENT OF DIRECTORS.

Company in general meeting may vary the number of directors.

Directors appointed by special act to continue in office for one year.

Election of new directors.

Existing directors continued on failure of meeting for election of directors.

Qualification of directors.

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Cases in
which office
of director
shall become
vacant.

of accepting any other office or place of trust or profit under the company, or of being interested in any contract with the company, during the time he shall be a director.

86. If any of the directors at any time subsequently to his election accept or continue to hold any other office or place of trust or profit under the company, or be either directly or indirectly concerned in any contract with the company, or participate in any manner in the profits of any work to be done for the company, or if such director at any time cease to be a holder of the prescribed number of shares in the company, then in any of the cases aforesaid the office of such director shall become vacant, and thenceforth he shall cease from voting or acting as a director.

Shareholder
of an incor-
porated joint
stock com-
pany not dis-
qualified.

87. Provided always, that no person, being a shareholder or member of any incorporated joint stock company, shall be disqualified or prevented from acting as a director by reason of any contract entered into between such joint stock company and the company incorporated by the special act; but no such director, being a shareholder or member of such joint stock company, shall vote on any question as to any contract with such joint stock company.

Rotation of
directors.

88. The directors appointed by the special act, and continued in office as aforesaid, or the directors elected to supply the places of those retiring as aforesaid, shall, subject to the provision hereinbefore contained for increasing or reducing the number of directors, retire from office at the times and in the proportions following, the individuals to retire being in each instance determined by ballot among the directors, unless they shall otherwise agree; (that is to say,)

At the end of the first year after the first election of directors the prescribed number, and if no number be prescribed one-third of such directors, to be determined by ballot among themselves, unless they shall otherwise agree, shall go out of office:

At the end of the second year the prescribed number and if no number be prescribed one-half of the remaining number of such directors, to be determined in like manner, shall go out of office:

At the end of the third year the prescribed number, and if no number be prescribed the remainder of such directors, shall go out of office:

And in each instance the places of the retiring directors shall be supplied by an equal number of qualified shareholders; and at the first ordinary meeting in every subsequent year the prescribed number, and if no number be prescribed one-third of the directors, being those who have been longest in office, shall go out of office, and their places shall be supplied in like manner; nevertheless every

director so retiring from office may be re-elected immediately or at any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new director: provided always, that if the prescribed number of directors be some number not divisible by three, and the number of directors to retire be not prescribed, the directors shall in each case determine what number of directors, as nearly one-third as may be, shall go out of office, so that the whole number shall go out of office in three years.

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89. If any director die, or resign, or become disqualified or incompetent to act as a director, or cease to be a director by any other cause than that of going out of office by rotation as aforesaid, the remaining directors, if they think proper so to do, may elect in his place some other shareholder, duly qualified, to be a director; and the shareholder so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Directors
may supply
occasional
vacancies in
their body.

And with respect to the powers of the directors, and the powers of the company to be exercised only in general meeting, be it enacted as follows:

POWERS OF
DIRECTORS.

90. The directors shall have the management and superintendence of the affairs of the company, and they may lawfully exercise all the powers of the company, except as to such matters as are directed by this or the special act to be transacted by a general meeting of the company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this and the special act; and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the directors prior to any resolution passed by such general meeting.

Powers of
the company
to be exer-
cised by the
directors.

91. Except as otherwise provided by the special act, the following powers of the company, (that is to say,) the choice and removal of the directors, except as hereinbefore mentioned, and the increasing or reducing of their number, where authorised by the special act, the choice of auditors, the determination as to the remuneration of the directors, auditors, treasurer, and secretary, the determination as to the amount of money to be borrowed on mortgage, the determination as to the augmentation of capital, and the declaration of dividends, shall be exercised only at a general meeting of the company.

Powers of
the com-
pany to be
exercised
only at a
general
meeting.

And with respect to the proceedings and liabilities of the directors, be it enacted as follows:

PROCEED-
INGS OF
DIRECTORS.

92. The directors shall hold meetings at such times as

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Meetings of directors, to be called by the secretary.	
Quorum.	
Votes.	
Directors to elect permanent chairman.	93. At the first meeting of directors held after the passing of the special act, and at the first meeting of the directors held after each annual appointment of directors, the directors present at such meeting shall choose one of the directors to act as chairman of the directors for the year following such choice, and shall also, if they think fit, choose another director to act as deputy chairman for the same period; and if the chairman or deputy chairman die or resign, or cease to be a director, or otherwise become disqualified to act, the directors present at the meeting next after the occurrence of such vacancy shall choose some other of the directors to fill such vacancy; and every such chairman or deputy chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such death, resignation, removal, or disqualification had not happened.
Deputy chairman.	
Occasional chairman of directors.	94. If at any meeting of the directors neither the chairman nor deputy chairman be present the directors present shall choose some one of their number to be chairman of such meeting.
Committees of directors.	95. It shall be lawful for the directors to appoint one or more committees, consisting of such number of directors as they think fit, within the prescribed limits, if any, and they may grant to such committees respectively power on behalf of the company to do any acts relating to the affairs of the company which the directors could lawfully do, and which they shall from time to time think proper to intrust to them.
Powers of committees.	
Meetings of committees.	96. The said committees may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and no such committee shall exercise the powers intrusted to them except at a meeting at which there shall be present the prescribed quorum, or if no quorum be prescribed then a quorum to be fixed for that purpose by the general body of directors; and at all meetings of the committees
Quorum.	

one of the members present shall be appointed chairman; and all questions at any meeting of the committee shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

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Chairman.

Votes.

97. The power which may be granted to any such committee to make contracts, as well as the power of the directors to make contracts on behalf of the company, may lawfully be exercised as follows; (that is to say,)

Power to
make con-
tracts.

With respect to any contract which, if made between private persons, would be by law required to be in writing, and under seal, such committee or the directors may make such contract on behalf of the company in writing, and under the common seal of the company, and in the same manner may vary or discharge the same.

Contracts in
writing and
under seal.

With respect to any contract which, if made between private persons, would be by law required to be in writing, and signed by the parties to be charged therewith, then such committee or the directors may make such contract on behalf of the company in writing, signed by such committee or any two of them, or any two of the directors, and in the same manner may vary or discharge the same:

Contracts in
writing signed
by two
directors.

With respect to any contract which, if made between private persons, would be by law be valid although made by parol only, and not reduced into writing, such committee or the directors may make such contract on behalf of the company by parol only, without writing, and in the same manner may vary or discharge the same:

Contracts
by parol
only, with-
out writing

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the company and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract, either by the company or any other party thereto, such actions or suits may be brought, either by or against the company, as might be brought had the same contracts been made between private persons only.

Contracts to
be binding
on company
and all other
parties.

98. The directors shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by the directors, and of the orders and proceedings of all meetings of the company, and of the directors and committees of directors, to be duly entered in books, to be from time to time provided for the purpose, which shall be kept under the superintendence of the

Proceedings
to be entered
in books,

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to be signed
by chairman
and to be
evidence.

directors; and every such entry shall be signed by the chairman of such meeting; and such entry, so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being shareholders or directors or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed, until the contrary be proved.

Acts of di-
rectors to be
valid, not-
withstand-
ing defects
in their ap-
pointment.

99. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Directors
not to be
personally
liable.

100. No director, by being party to or executing in his capacity of director any contract or other instrument on behalf of the company, or otherwise lawfully executing any of the powers given to the directors, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the directors shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as directors; and the directors, their heirs, executors, and administrators, shall be indemnified out of the capital of the company for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the directors for the time being of the company may apply the existing funds and capital of the company for the purposes of such indemnity, and may, if necessary for that purpose, make calls of the capital remaining unpaid, if any.

Directors to
be indemni-
fied for all
payments
made and
liabilities
incurred.

Auditors.

Election of
auditors.

And with respect to the appointment and duties of auditors, be it enacted as follows:

101. Except where by the special act auditors shall be directed to be appointed otherwise than by the company, the company shall, at the first ordinary meeting after the passing of the special act, elect the prescribed number of auditors, and if no number is prescribed two auditors, in like manner as is provided for the election of directors; and at the first ordinary meeting of the company in each

year thereafter the company shall in like manner elect an auditor to supply the place of the auditor then retiring from office, according to the provision hereinafter contained; and every auditor elected as hereinbefore provided, being neither removed nor disqualified, nor having resigned, shall continue to be an auditor until another be elected in his stead.

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102. Where no other qualification shall be prescribed by the special act, every auditor shall have at least one share in the undertaking; and he shall not hold any office in the company, nor be in any other manner interested in its concerns, except as a shareholder.

Qualification
of auditors.
[Amended
by 31 & 32
VICT., c. 119,
s. 11.]

103. One of such auditors (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the first ordinary meeting in each year; but the auditor so going out shall be immediately re-eligible, and after any such re-election shall with respect to the going out of office by rotation, be deemed a new auditor.

Rotation of
auditors.

Eligible for
re-election.

104. If any vacancy take place among the auditors in the course of the current year, then at any general meeting of the company the vacancy may, if the company think fit, be supplied by election of the shareholders.

Vacancies
in office of
auditor.

105. The provision of this act respecting the failure of an ordinary meeting at which directors ought to be chosen shall apply, "mutatis mutandis," to any ordinary meeting at which an auditor ought to be appointed.

Failure of
meeting to
elect audi-
tor.

106. The directors shall deliver to such auditors the half-yearly or other periodical accounts and balance sheet, fourteen days at the least before the ensuing ordinary meeting at which the same are required to be produced to the shareholders as hereinafter provided.

Directors to
deliver
balance
sheet, &c.,
to auditors.

107. It shall be the duty of such auditors to receive from the directors the half-yearly or other periodical accounts and balance sheet required to be presented to the shareholders, and to examine the same.

Auditors to
examine ac-
counts.

108. It shall be lawful for the auditors to employ such accountants and other persons as they may think proper, at the expense of the company, and they shall either make a special report on the said accounts, or simply confirm the same; and such report or confirmation shall be read, together with the report of the directors, at the ordinary meeting.

Auditors
may employ
accountants,
&c.

Confirma-
tion of ac-
counts.

And with respect to the accountability of the officers of the company, be it enacted as follows:—

ACCOUNTA-
BILITY OF
OFFICERS.

109. Before any person intrusted with the custody or control of monies, whether treasurer, collector, or other officer of the company, shall enter upon his office, the

Security.

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Officers to
deliver ac-
counts on
demand,

with vouch-
ers and re-
ceipts and
pay balance.

Summary
remedy
against off-
icers failing
to account,

by summons
before two
justices.

who may
order pay-
ment.

Officers re-
fusing to
deliver up
documents
&c., to be
imprisoned.

directors shall take sufficient security from him for the faithful execution of his office.

110. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose such monies shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

111. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for three days after being thereunto required he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special act, or any act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any monies of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

112. If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the company, such justices may lawfully commit such offender

to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the company.

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113. Provided always, that if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours, without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices, at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the company.

If officer about to abscond, a warrant may be issued in the first instance.

114. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

Sureties not to be discharged.

And with respect to the keeping of accounts, and the right of inspection thereof by the shareholders, be it enacted as follows:

Accounts

115. The directors shall cause full and true accounts to be kept of all sums of money received or expended on account of the company by the directors and all persons employed by or under them, and of the matters and things for which such sums of money shall have been received or disbursed and paid.

Accounts to be kept of all money received or expended.

116. The books of the company shall be balanced at the prescribed periods, and if no periods be prescribed, fourteen days at least before each ordinary meeting; and forthwith on the books being so balanced an exact balance sheet shall be made up, which shall exhibit a true statement of the capital stock, credits, and property of every description belonging to the company, and the debts due by the company at the date of making such balance sheet, and a distinct view of the profit or loss which shall have arisen on the transactions of the company in the course of the preceding half year: and previously to each ordinary

Books to be balanced and balance sheet made up.

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CAP. 16.

meeting such balance sheet shall be examined by the directors, or any three of their number, and shall be signed by the chairman or deputy chairman of the directors.

Books and balance sheet to be open for the inspection of shareholders at stated times.

117. The books so balanced, together with such balance sheet as aforesaid, shall for the prescribed periods, and if no periods be prescribed for fourteen days previous to each ordinary meeting, and for one month thereafter, be open for the inspection of the shareholders at the principal office or place of business of the company; but the shareholder shall not be entitled at any time, except during the periods aforesaid, to demand the inspection of such books, unless in virtue of a written order signed by three of the directors.

Balance sheet to be produced at meeting.

118. The directors shall produce to the shareholders assembled at such ordinary meeting the said balance sheet, applicable to the period immediately preceding such meeting, together with the report of the auditors thereon, as hereinbefore provided.

Directors to appoint book-keeper, who shall allow inspection of accounts at appointed times.

119. The directors shall appoint a book-keeper to enter the accounts aforesaid in books to be provided for the purpose; and every such book-keeper shall permit any shareholder to inspect such books, and to take copies or extracts therefrom, at any reasonable time during the prescribed periods, and if no periods be prescribed during one fortnight before and one month after every ordinary meeting; and if he fail to permit any such shareholder to inspect such books, or take copies or extracts therefrom, during the periods aforesaid, he shall forfeit to such shareholder for every such offence a sum not exceeding five pounds.

Penalty.

DIVIDENDS.

And with respect to the making of dividends, be it enacted as follows:

A scheme to be prepared showing the profits of the company.

120. Previously to every ordinary meeting at which a dividend is intended to be declared the directors shall cause a scheme to be prepared, showing the profits, if any, of the company for the period current since the preceding ordinary meeting at which a dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the purposes of dividend, among the shareholders, according to the shares held by them respectively, the amount paid thereon, and the periods during which the same may have been paid, and shall exhibit such scheme at such ordinary meeting, and at such meeting a dividend may be declared according to such scheme.

Dividend may be declared according to such scheme.

Dividend not to be made so as to reduce capital.

121. The company shall not make any dividend whereby their capital stock will be in any degree reduced: provided always, that the word "dividend" shall not be

construed to apply to a return of any portion of the capital stock, with the consent of all the mortgagees and bond-creditors of the company, due notice being given for that purpose at an extraordinary meeting to be convened for that object.

8 VICT.
CAP. 16.

122. Before apportioning the profits to be divided among the shareholders the directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing, or improving the works connected with the undertaking, or any part thereof, and may divide the balance only among the shareholders.

Directors may set apart a fund for contingencies.

123. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

Dividend not to be paid unless calls paid.

And with respect to the making of bye-laws, be it enacted as follows :

BYE LAWS.

124. It shall be lawful for the company from time to time to make such bye-laws as they think fit, for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, and from time to time to alter or repeal any such bye-laws, and make others, provided such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and a copy of such bye-laws shall be given to every officer and servant of the company affected thereby.

Company may make bye-laws for regulating the conduct of their officers and servants.

Copies to be given to officers, &c.

125. It shall be lawful for the company, by such bye-laws, to impose such reasonable penalties upon all persons, being officers or servants of the company, offending against such bye-laws, as the company think fit, not exceeding five pounds for any one offence.

Fines may be imposed for breach of such bye-laws.

126. All the bye-laws to be made by the company shall be so framed as to allow the justice before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such justice shall think fit.

Bye-laws to be so framed that penalties may be mitigated.

127. The production of a written or printed copy of the bye-laws of the company, having the common seal of the company affixed thereto, shall be sufficient evidence of such bye-laws in all cases of prosecution under the same.

Evidence of bye-laws.

And with respect to the settlement of disputes by arbitration, be it enacted as follows :

ARBITRATION.

**8 VICT.
CAP. 16.**

Where questions are to be determined by arbitration, arbitrators to be appointed within fourteen days after notice.

On failure of one party the other may appoint arbitrator to act on behalf of both.

If any arbitrator die or refuse to act, another may be nominated.

On failure, the remaining arbitrator may proceed.

Arbitrators to appoint umpire.

If umpire die or refuse to act, another to be appointed.

In the case of railways, Board of Trade may appoint an umpire, on neglect of the arbitrators.

128. When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

129. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed ex parte; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

130. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ; and if such umpire shall die, or refuse or for seven days neglect to act, they shall forthwith after such death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

131. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Board of Trade, if they think fit, in any case in which a railway company shall be one party to the arbitration, on the application of either

party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ shall be final.

8 VIOT.
CAP. 16.

132. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may call for documents and administer oaths.

133. Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpires, as the case may be.

Costs to be in the discretion of the arbitrators.

134. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to arbitration.

And with respect to the giving of notices, be it enacted as follows:

NOTICES

135. Any summons or notice, or any writ, or other proceeding, at law or in equity, requiring to be served upon the company, may be served by the same being left at, or transmitted through the post directed to the principal office of the company, or one of their principal offices, where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company.

Service of notices upon company.

136. Notices requiring to be served by the company upon the shareholders may, unless expressly required to be served personally, be served by the same being transmitted through the post directed according to the registered address or other known address of the shareholder, within such period as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was so put into the post-office.

Service of notices by company on shareholders.

137. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons shall be named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

Notices to joint proprietors of shares.

138. All notices required by this or the special act, or any act incorporated therewith, to be given by advertisement, shall be advertised in the prescribed newspaper, or if no newspaper be prescribed, or if the prescribed newspaper cease to be published, in a newspaper circulating in

Notices by advertisement.

**8 VICT.
CAP. 18.**

**Authentica-
tion of no-
tices.**

the district within which the company's principal place of business shall be situated.

**PROOF OF
DEBTS IN
BANKRUPT-
CY.**

**Secretary or
treasurer
may act on
behalf of
company.**

139. Every summons, notice, or other such document requiring authentication by the company, may be signed by two directors, or by the treasurer or the secretary of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

140. And be it enacted, That if any person against whom the company shall have any claim or demand become bankrupt, or take the benefit of any act for the relief of insolvent debtors, it shall be lawful for the secretary or treasurer of the company, in all proceedings against the estate of such bankrupt or insolvent, or under any fiat, sequestration, or act of insolvency against such bankrupt or insolvent, to represent the company, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the company.

**TENDER OF
AMENDS.**

**After tender
of sufficient
amends,
party not to
recover in
any action.**

141. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit; and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

**RECOVERY
OF DAMAGES
AND PENAL-
TIES.**

**Damages not
otherwise
provided for
may be as-
certained by
justices,**

And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:

**and recover-
ed by dis-
tress of
goods of
company.**

142. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company, or other party liable as aforesaid: and the justices by whom the same shall have been ordered to be paid, or either of them, on application shall issue their or his warrant accordingly.

143. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

8 VICT.
CAP. 16.

If goods of company cannot be found, then by distress of goods of treasurer.

Notice to treasurer.

Treasurer may sue the company.

144. Where in this or the special act, or any act incorporated therewith, any question of compensation, expenses, charges, or damages is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Proceedings before justices in questions of damages.

Upon appearance or proof of service justices may determine.

145. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or any act incorporated therewith, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be re-

Company to publish short particulars of offences for which any penalty is imposed, and affix in conspicuous places.

and renew when obliterated.

8 VICT.
CAP. 16.

Penalty for
defacing
boards used
for such
publication.

Penalties
may be re-
covered be-
fore two jus-
tices,

[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Upon
appearance
or proof
of service,
justices may
convict.

Penalties
may be
levied by
distress.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Justices
may detain
offenders
until return
be made to
warrant of
distress.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

coverable unless it shall have been published and kept published in the manner hereinbefore required.

146. If any person pull down or injure any board put up or affixed as required by this or the special act, or any act incorporated therewith, for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

147. Every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice, he shall issue a summons, requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them, and upon proof of the offence, either by the confession of the party complained against or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

148. If forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress; and such justices, or either of them, shall issue their or his warrant of distress accordingly.

149. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture, and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender

or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture, and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture, and costs, be sooner paid and satisfied.

8 VICT.
CAP. 16.

If no sufficient distress can be had, offenders may be imprisoned.

150 Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods and chattels of offender.

Overplus to be repaid.

151. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not to be deemed unlawful for want of form.

152. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, for the benefit of the poor of such parish; or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied for the benefit of the poor of such extra-parochial place, or of any adjoining parish or district, and shall order the same to be paid over to the proper officer for that purpose.

Justices may award penalties.

One half to the informer and remainder to overseers of the poor.

Repealed by 38 & 39 Vict. c. 66, s. 1.]

153. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Penalties to be sued for within six months.

[Amended by 47 & 48 Vict. c. 43, s. 4.]

8 VICT.
CAP. 16.

Damage to
property of
company to
be made good
in addition
to penalty.

Justice may
summon
witnesses.

[Repealed
so far as
relates to
any matter
to which the
Summary
Jurisdiction
Acts apply,
by 47 & 48
Vict. c. 43,
s. 4.]

Officers of
company
may detain
offenders
whose names
and resi-
dence shall
be unknown.

Form of
conviction.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Proceedings
not to be
vacated.

APPEND.

Parties
aggrieved

154. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, or any act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

155. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special act, or any act incorporated therewith, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

156. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, or any act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

157. *The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (G.) to this act annexed.*

158. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

159. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the

special act, or any act incorporated therewith, such party may appeal to the general quarter sessions *for the county or place in which the cause of appeal shall have arisen*; but no such appeal shall be entertained unless it be made *within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.*

8 Vict.
cap. 16.

may appeal
to quarter
sessions.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Security.

160. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court to
hear the
appeal, and
make such
order as
they think
reasonable.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:

ACCESS TO
SPECIAL
ACT.

161. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also, within the space of such six months, deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend, and in the office of the town clerk of every burgh or city into which or within one mile of which the works shall extend, a copy of such special act so printed as aforesaid; and the said clerks of the peace and town clerks shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms and under the like penalty for default, as is provided in the case of certain plans and sections, by an act passed in the first year of her present majesty, intituled "An Act to compel Clerks of the Peace

Copies of
special act
to be kept
at principal
office,

and deposited
with
clerks of
the peace
and town
clerks.

Inspection

7 W. 4 &
1 Vict. c. 83.

8 Vict.
cap. 16.

Penalty on
company
failing to
keep copies.

Scotland.

Sharehold-
ers residing
in Scotland
may be pro-
ceeded
against as
provided by
8 Vict. c. 17.

[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

Act may be
amended or
repealed.

[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

A.
Form of
certificate
of share.

for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

162. If the company shall fail to keep or deposit as hereinbefore mentioned any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

163. And be it enacted, That this act shall not extend to Scotland.

164. Provided always, and be it enacted, That if any shareholder residing in Scotland shall fail to pay the amount of any call made upon him by the company in respect of any share held by him, it shall be lawful for the company to proceed against him in Scotland, and to sue for and recover the amount of such call, or to declare such share forfeited, in such manner as is by "The Companies' Clauses Consolidation (Scotland) Act 1845," in case the same shall pass into a law, provided in regard to shareholders of any company in Scotland.

165. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of parliament.

SCHEDULES referred to by the foregoing Act.

A.—Form of Certificate of Share. "The Company."

Number

THIS is to certify, that A.B. of is the proprietor of the share Number of "The Company," subject to the regulations of the said company. Given under the common seal of the said company, the day of in the year of our Lord

B.
Form of
transfer of
shares or
stock.

B.—Form of Transfer of Shares or Stock.

I of in consideration of the sum of paid to me by of do hereby transfer to the said share [or shares], numbered in the undertaking called "The Company" or] pounds consolidated stock in the undertaking called "The Company," standing (or part of the stock standing) in my name in the books of the company], to hold unto the said his executors, administrators, and assigns [or successors and assigns], subject to the several conditions on which I held the same at the time of the execution hereof; and I the said do hereby agree to take the said share [or shares] [or stock], subject to th-

same conditions. As witness our hands and seals, the
 day of

8 Vict.
 CAP. 16.

C.—Form of Mortgage Deed.

a.
 Form of
 Mortgage
 deed.

"The Company."

Mortgage, Number £

By virtue of [here name the special act], we "The
 Company," in consideration of the sum of
 pounds paid to us by A.B. of do assign unto
 the said A.B., his executors, administrators, and assigns,
 the said undertaking, [and (in case such loan shall be in
 anticipation of the capital authorized to be raised) all
 future calls on shareholders], and all the tolls and sums of
 money arising by virtue of the said act, and all the estate,
 right, title, and interest of the company in the same; to
 hold unto the said A.B., his executors, administrators, and
 assigns, until the said sum of pounds, toge-
 ther with interest for the same at the rate of
 for every one hundred pounds by the year, be satisfied
 [the principal sum to be repaid at the end of
 years from the date hereof (in case any period be agreed
 upon for that purpose),] [at or any place of
 payment other than the principal office of the company].
 Given under our common seal, this day of
 in the year of our Lord

D.—Form of Bond.

D.
 Form of
 Bond.

"The Company."

Bond, Number £

By virtue of [here name the special act], we, "The
 Company," in consideration of the sum of
 pounds to us in hand paid by A.B. of do
 bind ourselves and our successors unto the said A.B., his
 executors, administrators, and assigns, in the penal sum
 of pounds.

The condition of the above obligation is such, that if
 the said company shall pay to the said A.B., his executors,
 administrators, or assigns, [at (in case any
 other place of payment than the principal office of the
 company be intended),] on the day of
 which will be in the year one thousand eight hundred and
 the principal sum of pounds,
 together with interest for the same at the rate of
 pounds per centum per annum, payable half-yearly on the
 day of and day of
 then the above-written obligation is to become
 void, otherwise to remain in full force. Given under our
 common seal, this day of one
 thousand eight hundred and

8 VICT.
CAP. 16.

E.
Form of
transfer of
mortgage or
bond.

E.—Form of Transfer of Mortgage or Bond.

I, A.B. of in consideration of the sum of paid to me by G.H. of do hereby transfer to the said G.H., his executors, administrators, and assigns, a certain bond [or mortgage] number made by "The Company" to bearing date the day of for securing the sum of and interest [or, if such transfer be by endorsement, the within security], and all my right, estate, and interest in and to the money thereby secured [and if the transfer be of a mortgage, and in and to the tolls, money, and property thereby assigned]. In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and

F.
Form of
proxy.

F.—Form of Proxy.

A.B. one of the proprietors of "The Company," doth hereby appoint C.D. of to be the proxy of the said A.B., in his absence to vote in his name upon any matter relating to the undertaking proposed at the meeting of the proprietors of the said company to be held on the day of next, in such manner as he the said C.D. doth think proper. In witness whereof the said A.B. hath hereunto set his hand [or, if a corporation, say the common seal of the corporation], the day of one thousand eight hundred and

G.
Form of
conviction.
[Repealed
by 47 & 48
Vict. c. 43,
s. 4.]

G.—Form of Conviction.

to wit.

Be it remembered, That on the day of in the year of our Lord A. B. is convicted before us, C., D., two of her Majesty's Justices of the peace for the county of [here describe the offence generally, and the time and place when and where committed], contrary to the [here name the special act]. Given under our hands and seals, the day and year first above written.

C.
D.

LANDS' CLAUSES, 1845.

8 Vict. cap. 18. An Act for consolidating in One Act certain provisions usually inserted in Acts authorizing the taking of lands for Undertakings of a Public Nature. [8th May, 1845.]

WHEREAS it is expedient to comprise in one general act sundry provisions usually introduced into acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves,

Preamble.

See also 23 & 24 Vict. c. 106.—§1 & 32 Vict., c. 119, 32 & 33 Vict., c. 18.

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every undertaking authorized by any act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed, together therewith, as forming one act.

Act to apply to all undertakings authorized by acts hereafter to be passed.

And with respect to the construction of this act and of acts to be incorporated therewith, be it enacted as follows:

INTERPRETATIONS IN THIS ACT.

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the

"Special act."

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CAP. 18.

"prescribed."

"the works."

"promoters of the undertaking."

INTERPRETATIONS IN THIS AND THE SPECIAL ACT.
—

Number.

Gender

"Lands."

"Lease."

"Month."

"Superior courts."

"Oath."

"County."

"The sheriff."

"The clerk of the peace."

word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special act empowered to execute such works or undertaking.

3. The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females.

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:

The word "lease" shall include an agreement for a lease.

The word "month" shall mean calendar month:

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be

situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

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CAP. 18.

The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together. "Justices."

Where under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking. "Owner."

The expression "the bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland. "The bank."

4. And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Lands' Clauses Consolidation Act, 1845." Short title of the act.

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter,) shall be incor- Form in which portions of this act may be incorporated with other acts.

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CAP. 18.

PURCHASE
OF LANDS
BY AGREEMENT.
—

Promoters
may purchase by
agreement
lands authorized by
special act.

Parties entitled to any
such lands empowered
to sell the same to the
promoters, and to enter
into all necessary
agreements.

Parties
having
limited interests enabled to sell
and convey.

porated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

And with respect to the purchase of lands by agreement, be it enacted as follows :

6. Subject to the provisions of this and the special act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special act authorized to be taken, and which shall be required for the purposes of such act, and with all parties having any estate or interest in such lands, or by this or the special act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

7. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose ; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release ; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest ; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same

extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the special act if they had respectively been under no disability.

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CAP. 18.

8. The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special act, or any act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

Parties under disability empowered to enfranchise copyholds, release lands from rent charge, &c.

9. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner hereinafter mentioned.

Amount of compensation in case of parties under disability to be ascertained by valuation.

Purchase money to be paid into the bank.

10. It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorized to be purchased for the purposes of the special act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the pro-

Vendors absolutely entitled may sell lands on chief rents.

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CAP. 18.

Repealed (in
part) by 23
& 24 Vict. c.
106, s. 1.
Chief rents
to be
charged on
tolls.

Extended by
23 & 24 Vict.
c. 106, s. 2.

Lands re-
quired for
additional
accommoda-
tion may
be pur-
chased.

Promoters
may sell
such lands,
and pur-
chase other
lands for
the like
purposes.

Promoters
not to pur-
chase more
than the
prescribed
quantity of
land from
parties
under dis-
ability.

Municipal
corporations
not to sell
without the

moters of the undertaking, [*but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum.*]

11. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable, and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

12. In case the promoters of the undertaking shall be empowered by the special act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

13. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

14. The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special act: and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

15. Nothing in this or the special act contained shall enable any municipal corporation to sell for the purposes of the special act, without the approbation of the commis-

sioners of her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special act, other than such lands as the company are by the powers of this or the special act empowered to purchase or take compulsorily.

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows:

16. Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special act, or any act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

17. A certificate under the hands of two justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof, and on the application of the promoters of the undertaking, and the production of such evidence as such justices think proper and sufficient, such justices shall grant such certificate accordingly.

18. When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special act, or any act incorporated therewith, they are authorized to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

19. All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or

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CAP. 18.

approbation
of the trea-
sury.

PURCHASE
OF LANDS
OTHERWISE
THAN BY
AGREEMENT.

Capital to be
subscribed
before com-
pulsory
powers put
in force.

Certificate
of justices
evidence
that capital
has been
subscribed.

[As to lands
for railways
in Ireland,
see 14 & 15
Vict. c. 70.]

Promoters
to give
notice of
their inten-
tion to take
lands to all
the parties
interested.

Notice to
state parti-
culars of
the lands
required.

Notices to,
to be served
personally
or left at
their places
of abode.

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CAP. 18.

Occupiers.

Notices to
corporations
to be left at
their principal
office.

If parties
fail to treat,
or disagree
as to compensation,
the amount
to be settled
in manner
hereinafter
provided.

Disputes as
to compensation
not exceeding
50*l*. to be
settled by
two justices.

Compensation
exceeding 50*l*.
may be settled
by arbitration
if desired by
the party
claiming.

cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

20. If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

21. If, for twenty-one days after the service of such notice, any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation.

22. If no agreement be come to between the promoters of the undertaking and the owners of or parties by this act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices.

23. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award, or if no final award shall be made,

the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

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24. It shall be lawful for any justice, upon the application of either party with respect to any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof.

In questions of disputed compensation justices may issue summons, and upon appearance or proof of service determine.

25. When any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

In questions of disputed compensation to be settled by arbitration, each party to appoint an arbitrator.

Appointment not to be revoked without consent.

On failure of one party, the other may appoint arbitrator to act on behalf of both.

26. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or

If arbitrator die, &c.

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CAP. 18.

another may
be appointed.

On failure
to do so the
other may
proceed.

Arbitrators
to appoint
umpire.

If umpire
die, &c.
another to
be appointed.

In the case
of railways,
Board of
Trade may
appoint an
umpire on
neglect of
the arbitra-
tors.
[Repealed
by 46 Vict.
c. 16, s. 1.]

If single
arbitrator
die, the
matter to
begin de
novo.

If either
arbitrator
refuse to
act, the
other to
proceed.

If arbitra-
tors fail to
make their
award with-
in 21 days,
umpire to
decide.

become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

27. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special act, and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

28. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade, *in any case in which a railway company shall be one party to the arbitration, and two justices in any other case*, shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

29. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the special act in the same manner as if such arbitrator had not been appointed.

30. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

31. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under

their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

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CAP. 18.

32. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators
may call for
documents
and admin-
ister oaths.

33. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a justice make and subscribe the following declaration; that is to say,

Arbitrator
or umpire to
make and
subscribe
declaration.

"I, A.B. do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming the special act].

"A. B.

"Made and subscribed in the presence of"
And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.

Declaration
to be an-
nexed to
award.

34. All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators, shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

Costs of
arbitration.
[As to Rail-
ways 30 &
31 Vict., c.
127, s. 37.]

35. The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Arbitrators
to deliver
their award
to promo-
ters.

36. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission
to award.

37. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form.

Award not
to be set
aside.

38. Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than ten days' notice to the other party of their intention to cause

Promoters
before sum-
moning a
jury to give
notice and

8 Vic.
CAP. 18.

offer com-
pensation.

In questions
of disputed
compensa-
tion to be
settled by a
jury, the
promoters to
issue their
warrant to
the sheriff or
coroner,

or ex-sheriff
or ex-coro-
ner not in-
terested in
the matter
in dispute.

Provisions
applicable
to sheriff
to apply to
coroner.

Delivery of
jury lists.

Upon re-
ceipt of
warrant
sheriff to
summon
jury,

and give
notice to
promoters
of time and

such jury to be summoned, and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

39. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate, and if all the coroners of such county be so interested, such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner, or ex-corporer shall have power, if he think fit, to appoint a deputy or assessor.

40. Throughout the enactments contained in this act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff, such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors' book and special jurors' list belonging to the county where the lands in question shall be situate.

41. Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice

to the promoters of the works of the time and place so appointed by him.

S VIOT.
CAP. 18.

42. Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, out no such party shall challenge the array.

place ap-
pointed.
Jury to be
drawn by
sheriff out
of jurors
appearing
upon sum-
mons.

43. The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law; and if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question, and on the like request the sheriff shall order the jury, or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

Sheriff to
preside at
inquiry.
and on re-
quest to
summon
witnesses
&c.

44. If the sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior courts; and if any person summoned and returned upon any jury under this or the special act, whether common or special, do not appear, or if appearing, he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by a sheriff or jurymen shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such jurymen shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

If sheriff
make de-
fault to for-
feit 50l.

Jurors not
appearing,
or neglect-
ing their
duty, liable
to forfeit 10l.

45. If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every

Witnesses
not appear-
ing or re-
fusing to be
examined,
liable to
forfeit 10l.

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CAP. 18.

Promoters
to give no-
tice.

If party
claiming
make
default, in-
quiry not to
proceed.

Jury to be
sworn by
the sheriff.

Jury to as-
sess sepa-
rately the
sums to be
paid for
purchase of
lands and
for damage
to other
lands.

Verdict and
judgment to
be signed by
the sheriff
and kept by
the clerk of
the peace.

Copies to be
evidence.

Inspection
and fee.

person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

46. Not less than ten days' notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is, to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury, and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies.

51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one-half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.

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CAP. 13.

Costs of the inquiry to be borne by the promoters where verdict given for a greater sum than previously offered in other cases to be defrayed equally by both parties.

52. The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges, and expenses incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry.

Costs of inquiry in case of difference to be settled by one of the masters of the Queen's Bench.

53. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.

Costs payable by promoters may be recovered by distress; payable by owners of lands may be deducted from compensation.

54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued

Either party may require that questions of compensation be tried

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CAP. 18.

by special
jury.

Sheriff on
receipt of
warrant to
nominate
special jury.

their warrant to the sheriff; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days' notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Deficiency of
special jury-
men may be
supplied by
other per-
sons quali-
fied as
special or
common
jurymen.

Trial to be
in the same
manner as
by common
jury.

Other in-
quiries may
be tried by
such jury.

Attendance
of jurymen.

Compensa-
tion to ab-

55. The special jury on such inquiry shall consist of twelve of the said twenty who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

57. No jurymen shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

58. The purchase-money or compensation to be paid for any lands to be purchased or taken by the promoters of

the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

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CAP. 18.

sent parties to be determined by a surveyor appointed by two justices.

59. Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Upon application of promoters two justices to nominate a surveyor

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

Surveyor to make and subscribe declaration.

"I A. B. do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

"A. B.

"Made and subscribed in the presence of"
And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

Nomination and declaration to be annexed to valuation.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

Expenses to be borne by promoters.

63. In estimating the purchase money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators, or surveyors, as the case may be, not only to

In estimating purchase money and compensation, re-

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CAP. 18.

guard to be
had to
damage by
severance of
lands.

When com-
pensation to
absent party
has been de-
termined by
a surveyor,
the party
may have
the same
submitted to
arbitration.

Question to
be submitted
to the arbi-
trators.

If further
sum award-
ed, promo-
ters to pay
or deposit
same within
14 days.

Costs of
the arbitra-
tion.

Compensa-
tion in re-
spect of
lands inju-
riously
affected by

the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered with costs by action or suit in any of the superior courts.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

68. If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the

provisions of this or the special act, or any act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit: and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

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CAP. 18.

works may
be settled
either by
arbitration
or by jury.
Promoters
on receiving
notice to pay
amount
claimed, or
refer to
arbitration.

or issue
warrant to
sheriff to
summon a
jury.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

APPLICA-
TION OF
COMPENSA-
TION.

69. If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the bank, in the name and with the privity of the Accountant-General of the Court of Chancery in England if the same relate to lands in England or Wales, or the

Purchase
money pay-
able to par-
ties under
disability,
amounting
to 200*l.* to be
deposited in
the bank in
the name of
the account-
ant-general.

3 VICT.
CAP. 18.

"Chancery,"
see 13 & 14
Vict. c. 51,
s. 8.

and remain
until ap-
plied to the
following
purposes.

Purchase or
redemption
of land tax,
or discharge
of debt.

Purchase of
other lands.

Removing or
replacing
buildings.

[As to lands
within the
county pala-
tine of Lan-
caster, see 13
& 14 Vict. c.
43, s. 12, and
17 & 18 Vict.
c. 82, s. 13.]

Money may
be so ap-
plied by
order of
court upon
petition of
party en-
titled.

"Chancery."

Interest to
be paid to
party en-
titled to pro-
fits.

Sums from
20*l.* to 200*l.*
to be depo-
sited in the
bank, or paid
to trustees.

Accountant-General of the Court of *Exchequer* in Ireland if the same relate to lands in Ireland, to be placed to the account there of such accountant-general, ex-parte the promoters of the undertaking (describing them by their proper name), in the matter of the special act (citing it), pursuant to the method prescribed by any act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money shall have been paid stood settled; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of *Exchequer* in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said accountant-general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

71. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect-

whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

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CAP. 18.

Money so paid to be applied as before directed.

72. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiocy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

Sums not exceeding 20l. to be paid to parties.

73. All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the bill authorising the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of *Exchequer* in Ireland, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the

All sums exceeding 20l. payable under contract with persons not absolutely entitled, to be paid into bank.

"Chancery."

Court may allot to tenants for life, &c. compensation for injury sustained independently of value of lands.

8 VICT.
CAP. 18.

Where compensation paid for leases or reversions, court may direct application of money as they may think just

"Chancery."

Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.

lands held therewith, by reason of the taking of such lands and the making of the works.

74. Where any purchase money or compensation paid into the bank under the provisions of this or the special act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

75. Upon deposit in the bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, the owner of such lands, including in such term all parties by this act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices as herein provided,

and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

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CAP. 18.

76. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with the privity of the accountant-general of the Court of Chancery in England or the Court of *Exchequer* in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited in the bank.

"Chancery."

77. Upon any such deposit of money as last aforesaid being made the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been

Upon deposit being made in the bank a receipt to be given, and the lands to vest in the promoters upon a deed poll being executed.

8 VIOT.
CAP. 12.

Upon appli-
cation of
party
making
claim to
monies so
deposited,
the court
may order
such money
to be invest-
ed or distri-
buted.
"Chancery."

Parties in
possession
of lands to
be deemed
the owners
until the
contrary be
shown to
the satis-
faction of
the court.

In all cases
of money de-
posited in
the bank,
(except by
reason of
wilful re-
fusal or neg-
lect) the
court may
order the
costs to be
paid by the
promoters.
"Chancery"

deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

78. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of *Exchequer* in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

79. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

80. In all cases of monies deposited in the bank under the provisions of this or the special act, or an act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper

orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of *Exchequer* in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

8 Ver.
CAP. 18.

Costs of one application only for reinvestment in land to be allowed unless court otherwise orders.
"Chancery."

And with respect to the conveyances of lands, be it enacted as follows :

CONVEYANCE OF LANDS.

81. Conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

Conveyances may be according to forms in schedule or by deed.

To vest lands there by conveyed in promoters, and merge all terms of years.

82. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests,

Costs of conveyances to be borne by promoters,

to include expenses of

8 VICT.
CAP. 18.

verifying
title and
furnishing
abstracts.

Costs of
conveyances
may be
taxed by one
of the taxing
masters of
the Court of
Chancery.

Expenses of
taxing costs
to be borne
by promoters
unless one
sixth part be
disallowed.

ENTRY ON
LANDS.

Promoters
not to enter
upon lands
until pur-
chase money
be paid or
deposited,

unless for
surveying,
taking
levels, or
setting out
the line.

If promoters
be desirous
of entering
upon lands
before

and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title.

83. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, or by a master in Chancery in Ireland, upon an order of the same court to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner hereinbefore provided in other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master and deducted by him accordingly in his certificate of such taxation.

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows:

84. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special act, until they shall either have paid to every party having any interest in such lands, or deposited in the bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days' notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

85. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made, or verdict given for the purchase

money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the bank by way of security, as hereinafter mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry or such a sum as shall, by a surveyor appointed by *two justices* in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, with two sufficient sureties to be approved of by *two justices* in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the bank for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation, as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon, at the rate of five pounds per centum per annum, from the time of entering on such lands, until such purchase money or compensation shall be paid to such party, or deposited in the bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special act.

86. The money so to be deposited as last aforesaid shall be paid into the bank in the name and with the privy of the accountant-general of the Court of Chancery in England or the Court of *Exchequer* in Ireland, to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made, the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction,

8 VICT.
CAP. 18.

agreement come to for purchase, they may deposit in bank amount claimed, or such sum as surveyor determines to be the value, and also give bond to parties interested.

"Board of Trade," see 30 & 31 Vict., c. 127, s. 38.

Upon making deposit and giving bond promoters may enter upon lands.

Money to be deposited in bank in name of accountant general.
"Chancery."

Cashier of bank to give a receipt.

8 Vict.
CAP. 18.

Money deposited to remain as a security to parties whose lands have been entered upon, and to be applied under the direction of the court.

"Chancery."

The company may pay the deposit money into the bank by way of security during the time that the office of the accountant-general is closed.

"Chancery."

If promoters enter upon lands without consent

a receipt for such money, specifying therein for what purpose and to whose credit the same shall have been paid in.

87. The money so deposited as last aforesaid shall remain in the bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

88. If at any time the company be unable, by reason of the closing of the office of the accountant-general of the Court of Chancery in England or the court of *Exchequer* in Ireland, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said accountant-general's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the accountant-general, and upon production of such direction at the bank of England the money so previously paid in shall be placed to the credit of the said accountant-general accordingly, and the receipt for the said payment be given to the party making the same in the usual way for the purpose of being filed at the report office.

89. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required

to be purchased or permanently used for the purposes of the special act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by action in any of the superior courts: provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bona fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as hereinbefore mentioned, although such person may not have been legally entitled thereto.

8 VICT.
CAP. 18.

before payment or deposit of purchase money to forfeit 10*l.* above damage.

If promoters after conviction continue in possession to forfeit 25*l.* per day.

Promoters not liable if compensation paid to parties believed to be entitled thereto.

90. On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

On trial decision of justices not to be held conclusive.

91. If in any case in which, according to the provisions of this or the special act, or any act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing

In case of refusal to deliver possession of lands, promoters may issue their warrant to sheriff.

Upon receipt of warrant, sheriff to deliver

8 VICT.
CAP. 18.

possession
and settle
costs.

Costs to be
deducted
from com-
pensation or
levied by
distress.

No party to
be required
to sell part
of a house.

INTERSECT-
ED LANDS.

Owners of
intersected
lands may
require pro-
motors to
purchase the
same,

or to throw
into adjoining
land.

Promoters
may insist
on purchase
of intersect-
ed lands,
where ex-
pense of
bridges, &c.
exceeds the
value.

Disputes as
to value to
be ascer-
tained as

and execution of such warrant to be settled by the sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

92. And be it enacted, That no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof.

And with respect to small portions of intersected land, be it enacted as follows :

93. If any lands not being situate in a town or built upon shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less quantity of land than half a statute acre, and if the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the special act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith ; and if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

94. If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expense of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the special act, or any act incorporated therewith, compellable to make, and if the owner of such lands have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land, and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be

ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expense of making such communication.

6 VIOT.
CAP. 18.

provided for
cases of dis-
puted com-
pensation.

And with respect to copyhold lands, be it enacted as follows: COPYHOLDS.

95. Every conveyance to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

Conveyance
to promoters
of copyhold
lands to be
entered on
rolls of
manor.

Until en-
franchised
to continue
subject to
fines, &c.

96. Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcel shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Promoters
to procure
lands holden
of manors to
be enfran-
chised and
pay such com-
pensation as
shall be agreed
upon or de-
termined as
in other
cases of
disputed com-
pensation.

8 VIOT.
CAP. 18.

Upon payment or deposit of compensation lord of manor to enfranchise lands, and in default thereof promoters may execute a deed poll.

97. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

If part only of lands subject to copyhold rents be taken, the apportionment of such rent may be settled by agreement or by two justices.

98. If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

COMMON
LANDS.

Compensation for right in soil of common lands to be paid to lord of manor or other party entitled.

And with respect to any such lands being common or waste lands, be it enacted as follows:

99. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein

any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

8 VICT.
CAP. 18.

100. Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, such lord of the manor or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Upon payment of deposit of compensation for right in soil of common lands, the party entitled to convey such lands to promoters, or in default they may execute a deed poll.

101. The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

Compensation for rights of common to be determined by promoters and committee of parties entitled.

102. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the

Promoters may convene a meeting of parties entitled to

8 VIOT.
CAP. 18.

rights of
common by
advertisement.

Notice of
meeting to
be affixed to
parish
church.

Meeting so
called to
appoint a
committee.

Committee
so chosen
to agree
with the
promoters.

As to appli-
cation of
compensa-
tion, see In-
closure of
Lands Act,
17 & 18
Vict. c. 97,
ss. 15 to 20.

Disputes to
be settled
as in other
cases.

If no com-
mittee ap-
pointed, to
be deter-
mined by a
surveyor.

lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

103. It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

104. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same; *and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests*, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or nonapplication thereof.

105. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

106. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by

a surveyor, to be appointed by two justices, as herein before provided in the case of parties who cannot be found.

8 VIOT.
CAP. 12.

107. Upon payment or tender to such committee, or any three of them, or if there shall be no such committee, then upon deposit in the bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

Upon payment or deposit of compensation payable to commoners the promoters may execute a deed poll, and thereupon the lands to vest.

"Chancery."

And with respect to lands subject to mortgage, be it enacted as follows:

LANDS IN MORTGAGE.

108. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special act, and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months' additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months' notice of his intention to redeem the

Promoters may purchase or redeem interest of mortgagee,

by paying principal, interest, and costs, with six months' additional interest.

or may give notice to pay off principal and interest at end of six months.

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CAP. 18.**

Upon pay-
ment or
tender of
money
mortgagee
to release
his interest.

If mortga-
gee fail to
release his
interest in
lands, pro-
moters may
deposit
money in
bank and
execute a
deed poll.

Interest of
mortgagee
to vest in
the promo-
ters.

If mort-
gaged lands
be of less
value the
compensa-
tion to be
settled by
agreement
or deter-
mined as in
other cases
of disputed
compensa-
tion.

same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

109. If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the bank, in the manner provided by this act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months' notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage debt so far as the same will extend, and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

111. If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the bank, in the manner provided by this act in like cases, and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless, all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

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If upon payment or tender mortgagee fail to convey, promoters may deposit money in bank and execute a deed poll.

Rights of mortgagee against mortgagor to remain in force.

112. If a part only of any such mortgaged lands be required for the purposes of the special act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt, so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be

If part only of mortgaged lands be required, the value to be settled by agreement or determined as in other cases of disputed compensation.

Amount paid to be endorsed on mortgage deed.

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CAP. 18.

If upon payment or tender mortgagee fail to convey, promoters may deposit money in bank and execute a deed poll.

Rights of mortgagee against residue of mortgaged lands to remain in force.

In cases of mortgages to be paid off at a stipulated time, promoters to pay costs of re-investment.

signed by the mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

113. If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the bank, in the manner provided by this act in the case of monies required to be deposited in such bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof; nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof (as the case may be), and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

114. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be

incurred by such mortgagees in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs in case of difference to be taxed and payment thereof enforced in the manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagees shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained.

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CAP. 18.

and compensation for
loss of
interest.

And with respect to lands charged with any rent service, rent-charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows:

RENT-
CHARGES.

115. If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special act, the same shall be determined as in other cases of disputed compensation.

Differences to be determined as in other cases of disputed compensation.

116. If part only of the lands charged with any such rent service, rent-charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the special act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

If part only of lands be required the apportionment of rent-charge may be settled by agreement or by two justices.

117. Upon payment or tender of the compensation so

If upon pay-

**§ VIOT.
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ment or
tender par-
ties fail to
release
such charge
promoters
may deposit
money in
bank and
execute a
deed poll.

Charge to
continue on
lands not
taken.

Promoters
to sub-
scribe me-
morandum
on deed
creating
such charge,
declaring
what part
of lands
have been
purchased.

agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the bank in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the rent service, rent-charge, chief or other rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

118. If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

LEASES.

If part only
of lands
under lease
be required,
the rent to

And with respect to lands subject to leases, be it enacted as follows :

119. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall

be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only of the land had been included in the lease.

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be apportioned by agreement or by two justices.

Lessee to be liable only for rent of lands not required.

Covenants of lease to be in force with regard to land not required.

120. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

Lessees to be compensated by promoters.

121. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special act.

Tenants at will, &c. to be compensated by promoters.

Amount to be determined by two justices in case of difference.

122. If any party, having a greater interest than as Parties

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claiming
compensa-
tion under
a lease to
produce the
same.

LIMIT OF
TIME FOR
COMPULSORY
PURCHASE.

INTERESTS
OMITTED TO
BE PUR-
CHASED.

Promoters
may pur-
chase inter-
ests in
lands the
purchase
whereof
have been
omitted by
mistake.

Within six
months
after notice
or recogni-
tion of right
of claimant
promoters
to pay com-
pensation,

tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

123. And be it enacted, That the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special act.

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows:

124. If, at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the special act, or any act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the purposes of the special act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity; and such purchase money

or compensation shall be agreed on or awarded and paid in like manner as according to the provisions of this act the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

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to be agreed
on or award-
ed and paid
in manner
before pro-
vided.

125. In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, as the case may be, shall assess the same according to what they shall find to have been the value of such lands, estate, or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

Value of
such lands
to be esti-
mated with-
out regard
to improve-
ments made
by promo-
ters.

126. In addition to the said purchase money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest, or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full costs and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place; and such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

Promoters to
pay costs of
litigation as
to such
lands, if
right deter-
mined in
favour of
claimant.

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows:

SALE OF SU-
PERFLUOUS
LAND.

127. Within the prescribed period, or if no period be prescribed within ten years after the expiration of the time limited by the special act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands, and apply the purchase money arising from such sales to the purposes of the special act; and in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

Within pre-
scribed
period lands
not wanted
to be sold,

in default to
vest in
owners of
adjoining
lands.

128. Before the promoters of the undertaking dispose of Superflu-

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ous lands' before sale to be offered to owner of lands from which they were originally taken, or to adjoining owners.

Right of pre-emption to be claimed within six weeks after offer of sale.

Declaration before justice evidence that such offer was made.

Differences as to price to be settled by arbitration.

Upon payment or tender of purchase money lands to be conveyed to the purchasers.

Receipt to be a suffi-

any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

129. If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

131. Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof by deed under the common seal of the promoters of the undertaking, if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking or any two of the directors or managers thereof acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him; and a receipt under such common seal, or under the hands of two of the

directors or managers of the undertaking as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

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cient discharge.

132. In every conveyance of lands to be made by the promoters of the undertaking under this or the special act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)

Effect of the word "grant" in conveyances of land by promoters.

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them:

Estate of inheritance in fee simple free from incumbrances.

A covenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking:

Quiet enjoyment.

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them:

Assurance of lands.

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

Grantees may assign breaches of covenants as if inserted in conveyance.

133. And be it enacted, That if the promoters of the undertaking become possessed by virtue of this or the special act, or any act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the

LAND TAX AND POOR'S RATE.
—
Deficiency.

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to be made
good by
promoters.

Power to
redeem land
tax.

SERVICE OF
NOTICES
UPON COM-
PANY.

TENDER OF
AMENDS.

Parties on
tender of
sufficient
amends not
to recover in
any action.

RECOVERY OF
PENALTIES.

Penalties
not other-
wise pro-
vided for
may be re-
covered by
summary
proceeding.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so in accordance with the powers in that behalf given by the acts for the redemption of the land tax.

134. And be it enacted, That any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

135. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows:

136. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending either in person or by

leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

8 VICT.
CAP. 18.

Upon proof of offence justices may order payment.

137. *If, forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices or either of them shall issue their or his warrant of distress accordingly.*

Penalties may be levied by distress. [Amended by 47 & 48 Vict. c. 43, s. 4.]

138. *Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.*

Distress to be levied by sale of goods of party liable.

Overplus to be repaid.

139. *The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or if there shall not be any poor's rate therein in aid of the poor's rate of any adjoining parish or district.*

Justices may award one half of penalties to informer and remainder to overseer of the poor. [Repealed by 38 & 39 Vict. c. 66, s. 1.]

140. *If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of*

Sums not exceeding 20l. may be recovered by distress of goods of treasurer.

8 VICT.
CAP. 18.

Treasurer
may sue the
company.

Distress not
to be deem-
ed unlawful
for want of
form.

Penalties not
to be sued for
within six
months.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Justices
may sum-
mon wit-
nesses.
[Repealed
so far as
relates to
any matter
to which the
Summary
Jurisdiction
Acts apply,
by 47 & 48
Vict. c. 43,
s. 4.]

Form of
conviction.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

Proceedings
not vacated
for want of
form.

such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

141. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

142. *No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.*

143. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

144. *The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (C.) to this act annexed.*

145. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

146. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognisances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

8 Vice.
CAP. 18.

Parties aggrieved by decision of justice may appeal to quarter sessions on giving security.

[Amended by 47 & 48 Vict. c. 43, s. 4.]

147. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court may make such order as they think reasonable.

148. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of

Receiver of the metropolitan police district to receive penalties incurred within his district.

2 & 3 Vict.
c. 71.

8 VICT.
CAP. 18.

any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

Persons
giving false
evidence
liable to
penalties.

149. And be it enacted, That any person who upon any examination upon oath under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

ACCESS TO
SPECIAL
ACT.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:

Copies of
special act
to be kept
at principal
office and
deposited
with clerks
of the
peace.

150. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Inspection.

See 7 W.
IV. & 1 Vict.
c. 83. s. 3.

Penalty on
company
failing to
keep or de-
posit copies.

151. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Scotland.

152. And be it enacted, That this act shall not extend to Scotland.

[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

153. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULES referred to in the foregoing Act.

A.—*Form of Conveyance.*

I of in consideration of the sum ^{A.} Form of conveyance.
of paid to me [or, as the case may be, into
the bank of England [or bank of Ireland], in the name and
with the privity of the accountant-general of the Court of
Chancery, ex parte "the promoters of the undertaking"
[naming them], or to A.B. of and C.D. of
. two trustees appointed to receive the same],
pursuant to the [here name the special act], by the [here
name the company or other promoters of the undertaking],
incorporated [or constituted] by the said act, do hereby
convey to the said company [or other description], their
successors and assigns, all [describing the premises to be
conveyed], together with all ways, rights, and appurte-
nances thereto belonging, and all such estate, right, title,
and interest in and to the same as I am or shall become
seised or possessed of, or am by the said act empowered
to convey, to hold the premises to the said company [or
other description], their successors and assigns for ever,
according to the true intent and meaning of the said act.
In witness whereof I have hereunto set my hand and seal,
the day of in the year of our Lord

B.—*Form of Conveyance on Chief Rent.*

I of in consideration of the rent- ^{B.} Form of conveyance on chief rent.
charge to be paid to me, my heirs and assigns, as herein-
after mentioned, by "the promoters of the undertaking"
[naming them], incorporated [or constituted] by virtue of
the [here name the special act], do hereby convey to the
said company [or other description], their successors and
assigns, all [describing the premises to be conveyed],
together with all ways, rights, and appurtenances there-
unto belonging, and all my estate, right, title, and interest
in and to the same and every part thereof, to hold the said
premises to the said company [or other description], their
successors and assigns, for ever, according to the true
intent and meaning of the said act, they the said company
[or other description], their successors and assigns, yield-
ing and paying unto me, my heirs and assigns, one clear
yearly rent of by equal quarterly [or half-
yearly, as agreed upon.] portions, henceforth, on the
[stating the days], clear of all taxes and deductions. In
witness whereof I hereunto set my hand and seal, the
. day of in the year of our Lord

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CAP. 18.

C.
Form of
conviction.
[Repealed
by 47 & 48
VICT. C. 43,
s. 4.]

C.—*Form of Conviction.*

to wit.

*Be it remembered, that on the day of
in the year of our Lord A.B. is convicted
before us C., D., two of Her Majesty's justices of the peace
for the county of [here describe the offence
generally, and the time and place when and where com-
mitted], contrary to the [here name the special act].
Given under our hands and seals, the day and year first
above written.*

C., D.

RAILWAYS' CLAUSES, 1845.

8 VICT. cap. 20. An Act for consolidating in One Act certain provisions usually inserted in Acts authorizing the making of Railways.
[8th May, 1845.]

WHEREAS it is expedient to comprise in one general Preamble. act sundry provisions usually introduced into acts of parliament authorizing the construction of railways, and that, ^{See also 26 & 27 Vict. c. 92.} as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings, as for ensuring greater uniformity in the provisions themselves: and whereas a bill is now pending in parliament, intituled "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature," and which is intended to be called "The Lands' Clauses Consolidation Act, 1845:"

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every railway which shall by any act which shall hereafter be passed be authorized to be constructed, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed together therewith as forming one act.

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INTERPRETA-
TIONS IN
THIS ACT.

"Special
act."
"Pre-
scribed."

"The
lands."

"The under-
taking."

INTERPRETA-
TIONS IN
THIS AND
THE SPECIAL
ACT.

Number.

Gender.

"Lands."

"Lease."

"Toll."

"Goods."

"Month."

"Superior
courts."

"Oath."

"County."

And with respect to the construction of this act and of other acts to be incorporated therewith, be it enacted as follows:

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed authorizing the construction of a railway, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the lands" shall mean the lands which shall by the special act be authorized to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the railway and works, of whatever description, by the special act authorized to be executed.

3. The following words and expressions, both in this and the special act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include also the singular number:

Words importing the masculine gender only shall include females:

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure:

The word "lease" shall include an agreement for a lease:

The word "toll" shall include any rate or charge or other payment payable under the special act for any passenger, animal, carriage, goods, merchandize, articles, matters, or things conveyed on the railway:

The word "goods" shall include things of every kind conveyed upon the railway:

The word "month" shall mean calendar month:

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

The word "sheriff" shall include under sheriff or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

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"The
sheriff."
"The clerk
of the
peace."

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together:

"Justice."

"Two Jus-
tices."

Where under the provisions of this or the special act any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, or any act incorporated therewith, would be enabled to sell and convey lands to the company:

"Owner."

The expression "the company" shall mean the company or party which shall be authorized by the special act to construct the railway:

"The com-
pany."

The expression "the railway" shall mean the railway and works by the special act authorized to be constructed:

"The rail-
way."

The expression "the Board of Trade" shall mean the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations:

"Board of
Trade."

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"The
bank."

"Turnpike
road," Ire-
land.

"Surveyor,"
Ireland.

"Overseers
of the poor,"
Ireland.

Short title
of this act.

Form in
which por-
tions of this
act may be
incorporated in
other acts.

CONSTRU-
TION OF
RAILWAY.

Power
given by
special act
to construct
railway and
take lands,
to be subject
to the pro-

The expression "the bank" shall mean the bank of England, where the same shall relate to monies to be paid or deposited in respect of lands situate in England; and shall mean the bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland:

The expression "turnpike road" shall, when applied to any road in Ireland, include any road upon which her Majesty's mails are or shall be carried in mail carriages; or such other roads as the commissioners of public works in Ireland shall consider to require arches of greater width or height than by this act is required for public carriage roads:

The expression "surveyor," applied to a road or highway, shall, as to railways in Ireland, include the county surveyor:

The expression "overseers of the poor," when applied to Ireland, shall include the poor law guardians of the electoral division and the clerk of the guardians of the union through which such railway may pass.

4. And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Railways' Clauses Consolidation Act, 1845."

5. And whereas it may be convenient, in some cases, to incorporate with acts hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act, in the words introductory to the enactment with respect to such matter) shall be incorporated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

And with respect to the construction of the railway and the works connected therewith, be it enacted as follows:

6. In exercising the power given to the company by the special act to construct the railway, and to take lands for that purpose, the company shall be subject to the provisions and restrictions contained in this act and in the said Lands' Clauses Consolidation Act; and the company shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the pur-

poses of the railway, or injuriously affected by the construction thereof, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers by this or the special act, or any act incorporated therewith, vested in the company; and, except where otherwise provided by this or the special act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands' Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said last-mentioned act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

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CAP. 20.

visions of
this act, and
the Lands'
Clauses
Consolida-
tion Act.

7. If any omission, mis-statement, or erroneous description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described on the plans or books of reference mentioned in the special act, or in the schedule to the special act, it shall be lawful for the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, to apply to two justices for the correction thereof; and if it shall appear to such justices that such omission, mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been mis-stated or erroneously described; and such certificate shall be deposited with the clerks of the peace of the several counties in which the lands affected thereby shall be situate, and shall also be deposited with the parish clerks of the several parishes in England, and with the postmasters of the post towns in or nearest to such parishes in Ireland, in which the lands affected thereby shall be situate; and such certificate shall be kept by such clerks of the peace, parish clerks, and postmasters respectively along with the other documents to which they relate; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and it shall be lawful for the company to make the works in accordance with such certificate.

Errors and
omissions
in plans, &c.
mentioned
in special
act may be
corrected by
two justices.

Certificate
of justices
to state par-
ticulars of
such omis-
sion and to
be deposited
with clerks
of the peace,
parish
clerks, and
post-
masters.

8. It shall not be lawful for the company to proceed in the execution of the railway unless they shall have previously to the commencement of such work deposited with the clerks of the peace of the several counties in or through which the railway is intended to pass a plan and section of all such alterations from the original plan and section as

Works not
to be pro-
ceeded with
until plans
of all altera-
tions au-
thorized by
parliament.

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CAP. 20.

have been
deposited.

shall have been approved of by parliament, on the same scale and containing the same particulars as the original plan and section of the railway, and shall also have deposited with the clerks of the several parishes in England, and the postmasters of the post towns in or nearest to such parishes in Ireland, in or through which such alterations shall have been authorized to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

Clerks of
the peace,
&c. to re-
ceive plans
of altera-
tions, and
allow in-
spection.

9. The said clerks of the peace, parish clerks, and postmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

7 W. 4. & 1
Vict. c. 83.
s. 3.

Copies of
plans, &c. or
of altera-
tions to be
evidence.

10. True copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such clerk of the peace, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere, as evidence of the contents thereof.

Company
not to de-
viate from
levels de-
scribed in
section
more than
five feet, or
in towns,
&c. two feet,
without
consent of
owners, &c.
See 28 & 27
Vict. c. 92,
s. 4.

11. In making the railway it shall not be lawful for the company to deviate from the levels of the railway, as referred to the common datum line described in the section approved of by parliament and as marked on the same, to any extent exceeding in any place five feet, or, in passing through a town, village, street, or land continuously built upon, two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made; or in case any street or public highway shall be affected by such deviation, then the same shall not be made without the like consent of the trustees or commissioners having the control of such street or public highway, or, if there be no such trustees or commissioners, without the like consent of two or more justices of the peace in petty sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated, or without the like consent of the commissioners of any public sewers, or the proprietors of any canal, navigation, gas works, or water

works affected by such deviation : provided always, that it shall be lawful for the company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by act of parliament be left for roads, streets, or canals passing under the same : provided also, that notice of every petty sessions to be holden for the purpose of obtaining such consent of two justices as is hereinbefore required shall, fourteen days previous to the holding of such petty sessions, be given in some newspaper circulating in the county, and also be affixed upon the door of the parish church in which such deviation or alteration is intended to be made, or, if there be no church, some other place to which notices are usually affixed.

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CAP. 20.

Company may lower embankments or viaducts.

Notice of petty sessions for obtaining consent of justices.

12. Before it shall be lawful for the company to make any greater deviation from the level than five feet, or, in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper, circulating in the district or neighbourhood where such deviation is intended to be made, three weeks at least before commencing to make such deviation ; and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the Board of Trade, after giving ten days' notice to the company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made ; and it shall be lawful for the Board of Trade, if they think fit, to decide such question accordingly, and by their certificate in writing either to disallow the making of such deviation or to authorize the making thereof, either simply or with any such modification as shall seem proper to the Board of Trade : and after any such certificate shall have been given by the Board of Trade it shall not be lawful for the company to make such deviation, except in conformity with such certificate.

Public notice to be given previous to making greater deviations.

Owners of adjoining lands may appeal to the Board of Trade against such deviations.

13. Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the said plan or section, the same shall be made accordingly ; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly, unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

Viaducts, tunnels, &c. to be made as marked on deposited plans.

14. It shall not be lawful for the company to deviate Limiting

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CAP. 20.

deviations
from works
in plan.

Inclination
or gradients
of railway.

from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits, and under the following conditions; (that is to say,)

Subject to the above provisions in regard to altering levels, it shall be lawful for the company to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows: (that is to say,) in gradients of an inclination ~~not exceeding one~~ in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Board of Trade to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Board of Trade as aforesaid:

Radius of
curves.

It shall be lawful for the company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorized by such certificate as aforesaid from the Board of Trade:

Tunnels and
viaducts.

It shall be lawful for the company to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorized by such certificate as aforesaid from the Board of Trade.

Limits of
deviation
from line
marked on
plans.

15. It shall be lawful for the company to deviate from the line delineated on the plans so deposited, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon than ten yards, or elsewhere to a greater extent than one hundred yards from the said line, and that the railway by means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference, without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the special act provided for in cases of unintentional errors in the said books of reference.

Deviation
not to ex-
tend into
lands of
persons not
mentioned
in book of
reference.

Company
may execute
works.

16. Subject to the provisions and restrictions in this and the special act, and any act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works con-

nected therewith, hereinafter mentioned, to execute any of the following works ; (that is to say,) 8 VICT. CAP. 20.

They may make or construct, in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tram roads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences as they think proper ;

Construct inclined planes, &c.

They may alter the course of any rivers not navigable, ~~brooks, streams, or watercourses, and of any branches of navigable rivers,~~ such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets, or ways, or raise or sink the level of any such rivers or streams, roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper ;

Alter course of rivers, &c.

They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway ;

Make drains, &c.

They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper ;

Erect warehouses, &c.

They may, from time to time alter, repair, or discontinue the beforementioned works or any of them, and substitute others in their stead ; and

Alter and repair works.

They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway :

And do other acts.

Provided always, that in the exercise of the powers by this or the special act granted the company shall do as little damage as can be, and shall make full satisfaction in manner herein and in the special act, and any act incorporated therewith, provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Company to do as little damage as can be, and give compensation.

17. It shall not be lawful for the company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and reflows, any work, or to construct any railway or bridge across any

Company not to construct works below high-water mark without consent

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CAP. 20.

of commis-
sioners of
woods, and
Board of
Trade.

"Board of
Trade," sec
25 & 26
Vict. c. 69,
s. 6.

"Board of
Trade."

Works not
to be altered
without like
consent.

"Board of
Trade."

Company
may alter
position of
water and
gas pipes,
&c.

under super-
intendence
of water or
gas com-
pany.

Notice.

creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and reflows, without the previous consent of her Majesty, her heirs and successors, to be signified in writing under the hands of two of the commissioners of her Majesty's woods, forests, land revenues, works, and buildings, *and of the lord high admiral of the united kingdom of Great Britain and Ireland, or the commissioners for executing the office of lord high admiral aforesaid for the time being, to be signified in writing under the hand of the secretary of the Admiralty,* and then only according to such plan and under such restrictions and regulations as the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and the *said lord high admiral, or the said commissioners,* may approve of, such approval being signified as last aforesaid; and where any such work, railway, or bridge shall have been constructed it shall not be lawful for the company at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consents or approvals; and if any such work, railway, or bridge shall be commenced or completed contrary to the provisions of this act, it shall be lawful for the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, or the *said lord high admiral, or the said commissioners for executing the office of lord high admiral,* to abate and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the company; and the amount thereof may be recovered in the same manner as a penalty is recoverable against the company.

18. It shall be lawful for the company, for the purpose of constructing the railway, to raise, sink, or otherwise alter the position of any of the watercourses, water pipes, or gas pipes belonging to any of the houses adjoining or near to the railway, and also the mains and other pipes laid down by any company or society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such company, society, or inhabitants as the circumstances will admit, and be done under the superintendence of the company to which such water pipes or gas pipes belong, and of the several commissioners or trustees, or persons having control of the pavements, sewers, roads, streets, highways, lanes, and other public passages and places within the parish or district where such mains, pipes, or obstructions shall be situate, or of their surveyor, if they or he think fit to attend, after receiving not less than forty-eight hours' notice for that purpose.

19. Provided always, that it shall not be lawful for the company to remove or displace any of the mains or pipes (other than private service pipes), syphons, plugs, or other works belonging to any such company or society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs, and all other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the railway, and to the satisfaction of the surveyor or engineer of such water or gas company or society, or, in case of disagreement between such surveyor or engineer and the company, as a justice shall direct.

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CAP. 20.

Company not to disturb pipes until they have laid down others for continuing the supply of water or gas.

20. It shall not be lawful for the company to lay down any such pipes contrary to the regulations of any act of Parliament relating to such water or gas company or society, or to cause any road to be lowered for the purposes of the railway, without leaving a covering of not less than eighteen inches from the surface of the road over such mains or pipes.

Pipes not to be laid contrary to acts, and 18 inches surface to be retained.

21. The company shall make good all damage done to the property of the water or gas company or society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes, or works of such water or gas company or society, or with the private service pipes of any person supplied by them with water.

Company to make good all damage done to property of water or gas company.

22. If it shall be necessary to construct the railway or any of the works over any mains or pipes of any such water or gas company or society, the company shall, at their own expense, construct and maintain a good and sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs.

When railway crosses pipes, company to make a culvert.

23. If by any such operations as aforesaid the company shall interrupt the supply of any water or gas they shall forfeit twenty pounds for every day that such supply shall be so interrupted, and such penalty shall be appropriated to the benefit of the poor of the parish in which such obstruction shall occur, in such manner as the overseers of the poor of the parish shall direct.

If company obstruct supply of water or gas to forfeit 20l. per day.

24. If any person wilfully obstruct any person acting under the authority of the company in the lawful exercise of their power, in setting out the line of the railway, or

Persons obstructing construction of rail-

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CAP. 20.

way liable
to penalty of
5*l*.

DRAINAGE OF
LANDS IN
IRELAND.

1 & 2 W.
1 V. c. 57.

5 & 6 Vict.
c. 89.

The com-
pany from
time to time
to submit to
the drainage
commission-
ers in Ire-
land plans,
&c. of the
railway.

pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding five pounds for every such offence.

And whereas there are large tracts of land in Ireland subject to flood and injury by water, and the rivers, streams, and watercourses are in many places obstructed by shoals, insufficient bridges, culverts, weirs, and other works, whereby the waters thereof are elevated above their natural level: and whereas an act of parliament was passed in the second year of the reign of his late Majesty King William the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers:" and whereas another act was passed in the sixth year of the reign of her present Majesty, intituled, "An Act to promote the Drainage of Lands, and improvement of Navigation and Water-power in connexion with such Drainage, in Ireland;" and by the said last-mentioned act public commissioners were appointed to carry the said last-recited act into execution: and whereas it is essential, for carrying into effect the purposes of the said acts, and for the improvement of agriculture, that ample provision be made in all railway works in Ireland for the free and uninterrupted passage of the waters at such level as will be sufficient not only for the present but all future discharge of the waters from lands crossed by or being on either side of such works, and that the bridges of railways crossing all watercourses, rivers, lakes, or estuaries which are or hereafter may be made navigable shall be so constructed as to admit of the commodious navigation of the same: therefore, with respect to the provision to be made for the drainage of land in Ireland which may be crossed by the railway, and for the protection of the navigation connected therewith, be it enacted as follows:

25. If the special act shall authorize the construction of a railway in Ireland, the company shall and they are hereby required, from time to time, before proceeding to construct any portion of the railway, to submit to the commissioners acting in execution of the said act of the sixth year of her present Majesty, or any act amending the same, such plans, sections, and surveys as shall be necessary to enable the said commissicners to decide upon the number and adequacy of the waterways of all bridges, culverts, tunnels, watercourses, and other works across the line of such portion as aforesaid of the railway, for the free and uninterrupted discharge of the waters from all lands crossed by or lying on either side of or near the

railway, at such level as shall in the opinion of the said commissioners be sufficient for the present and prospective drainage and improvement of such lands, and (in cases of rivers, lakes, estuaries, or watercourses, which are now or may be capable of being made navigable) upon the height and adequacy of all bridges and works crossing the same, for the commodious navigation thereof.

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CAP. 20.

26. The said commissioners shall and they are hereby required, without any unnecessary delay, to investigate, by such means as to them shall seem fit, the adequacy of all such works for such purposes as aforesaid, and to decide and certify, by a writing under their hands, or the hands of any two of them, the number, situation, and least possible dimensions as to breadth, depth, and height of the several openings of such bridges, culverts, tunnels, or other works connected with such portion of the railway as aforesaid, which shall be necessary for the passage of water, or for navigation under or across such railway; and it shall not be lawful for the company to proceed with the execution of any of the works connected with any portion of the railway without having first obtained such a certificate as aforesaid respecting such portion of the railway, under the hands of the said commissioners or any two of them, as aforesaid; nor shall the company be at liberty to deviate from such certificate in respect to such works, nor to execute the same otherwise than in conformity therewith, without the previous approbation in writing of the said commissioners.

Such commissioners to investigate and report on the works necessary for drainage.

Works not to be proceeded with until certificate obtained.

27. It shall be lawful for the said commissioners to apply by petition in a summary way to the Court of Chancery, complaining of any omission on the part of the company to submit such plans, sections, and surveys to the said commissioners as aforesaid, or of the omission to construct any such bridge, culvert, tunnel, or other works for the passage of water, in such manner as shall be so certified by the said commissioners, and thereupon it shall be lawful for the said court to direct such works to be made or constructed by the company in such manner as shall be conformable to the certificate of the said commissioners, and to the said court shall seem necessary or proper, and to make from time to time such further or other order for restraining the company or any other persons from proceeding with any of the works connected with such portion of railway, except in conformity with the certificate of the said commissioners, and to issue any writ of injunction for the purpose aforesaid; and such court shall have power to award costs to be paid by such company or persons.

Drainage commissioners may make summary application to the Court of Chancery to enforce the execution of such works.

28. Nothing in this or the special act shall extend or be

Powers of

**§ VICT.
CAP. 20.**

drainage
commission-
ers not to be
affected by
this act.

The drain-
age commis-
sioners in
Ireland may
decide ques-
tions as to
the execu-
tion of
works, or
execute
works for
carrying
water-
courses
across the
railway.

construed to prejudice or affect the powers or authorities of the commissioners acting in execution of the said act of the sixth year of her present Majesty, but all such powers shall be in full force as to the formation of any cut, river, or watercourse across the railway, but such powers shall not be exercised so as to prevent or obstruct the working or using of the railway.

29. And whereas it is expedient to encourage the establishment of manufactories to be worked by water power in Ireland; be it therefore enacted, That whenever it may be requisite for the formation of a watercourse for manufacturing purposes to construct an arch, culvert, tunnel, or watercourse beneath or an aqueduct above any railway in Ireland, and that differences shall have arisen between the directors of such railway and the person interested in obtaining the water power, either as to the manner in which such works shall be executed, or the amount of compensation which should be paid, it shall be lawful to refer the questions in issue to the commissioners acting under the said recited act of the fifth and sixth years of the reign of her Majesty Queen Victoria, and their decision thereon shall be final and conclusive; and if the said commissioners shall be of opinion that the proposed works can be executed without injury to the railway, and if they shall think proper so to do, they may undertake the execution of so much of the said works as shall be in connexion with such railway, at the expense of the parties for whose benefit the watercourse shall be made, with the same powers and authorities as are given by the said act for the execution of any works for drainage.

**TEMPORARY
USE OF
LANDS.**

Company
may occupy
temporarily
private
roads within
five hundred
yards of the
railway.

And with respect to the temporary occupation of lands near the railway during the construction thereof, be it enacted as follows :

30. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion house, within the prescribed limits, if any, or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the railway as delineated on the plans; but before the company shall enter upon or use any such existing road they shall give three weeks' notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which,

Notice to
owners.

they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the company, or in case they differ about the compensation the same shall be settled by two justices in the same manner as any compensation not exceeding fifty pounds is directed to be settled by the said Lands' Clauses Consolidation act.

8 VIOT.
CAP. 20.

Compensation.

31. It shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the company to object to the company making use of such road, on the ground that other roads, such as the company are hereinbefore authorized to use for the purposes aforesaid, or that some public road, would be more fitting to be used for the same; and upon the objection being so made such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the company, in respect of which three weeks' notice is hereinafter required to be given, and in the same manner as if in the provisions relative to such proceedings the word road or roads, or the words road and the land over which the same passes, as the case may require, had been substituted in such provisions for the word lands.

Owners and occupiers of roads and lands may object that other roads should be taken.

32. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, without making any previous payment, tender, or deposit, to enter upon any lands within the prescribed limits, or, if no limits be prescribed, not being more than two hundred yards distant from the centre of the railway as delineated on the plans, and not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance, or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes; (that is to say,)

Company may take temporary possession of lands for certain purposes without previous payment of price.

For the purpose of taking earth or soil by side cuttings therefrom;

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CAP. 30.

TEMPORARY
USE OF
LANDS.

For the purpose of depositing spoil thereon ;
For the purpose of obtaining materials therefrom for
the construction or repair of the railway or such ac-
commodation works as aforesaid ; or
For the purpose of forming roads thereon to or from or
by the side of the railway :

And in exercise of the powers aforesaid it shall be lawful
for the company to deposit and also to manufacture and
work upon such lands materials of every kind used in
constructing the railway, and also to dig and take from
out of any such lands any clay, stone, gravel, sand, or
other things that may be found therein useful or proper
for constructing the railway or any such roads as aforesaid,
and for the purposes aforesaid to erect thereon workshops,
sheds, and other buildings of a temporary nature : pro-
vided always, that nothing in this act contained shall ex-
empt the company from an action for nuisance or other
injury, if any done, in the exercise of the powers herein-
before given, to the lands or habitations of any party other
than the party whose lands shall be so taken or used for
any of the purposes aforesaid : provided also, that no stone
or slate quarry, brick field, or other like place, which at
the time of the passing of the special act shall be com-
monly worked or used for getting materials therefrom for
the purpose of selling or disposing of the same, shall be
taken or used by the company, either wholly or in part,
for any of the purposes lastly hereinbefore mentioned.

Company
liable to
action for
nuisance.

No quarry
or brick
field to be
taken.

Company
to give no-
tice to own-
ers and
occupiers
previous to
taking such
temporary
possession.

33. In case any such lands shall be required for spoil
banks or for side cuttings, or for obtaining materials for
the construction or repair of the railway, the company
shall before entering thereon (except in the case of acci-
dent to the railway requiring immediate reparation) give
three weeks' notice in writing to the owners and occupiers
of such lands of their intention to enter upon the same for
such purposes ; and in case the said lands are required for
any of the other purposes hereinbefore mentioned the
company shall (except in the cases aforesaid) give ten
days' like notice thereof, and the company shall in such
notices respectively state the substance of the provisions
hereinafter contained respecting the right of such owner
or occupier to require the company to purchase any such
lands, or to receive compensation for the temporary occu-
pation thereof, as the case may be.

Service of
notices on
owners and
occupiers of
lands.

34. The said notice shall either be served personally on
such owners and occupiers, or left at their last usual place
of abode, if any such can, after diligent inquiry, be found,
and in case any such owner shall be absent from the
United Kingdom, or cannot be found after diligent in-
quiry, shall also be left with the occupier of such lands,

or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

35. In any case in which a notice of three weeks is hereinbefore required to be given it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the company to object to the company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purposes by the company; and upon objection being so made such proceedings may be had as hereinafter mentioned.

36. If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any justice, on the application of such owner, to summon the company to appear before two justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days' notice; and on the appearance of the company, or, in their absence, upon proof of due service of the summons, it shall be lawful for such justices to inquire into the truth of such ground of objection; and if it appear to such justices that for some special reason, to be stated in the order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the company, it shall be lawful for such justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the company, and after service of such order on the company it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use.

37. If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as

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CAP. 20.

Owner may
object that
other lands
ought to be
taken.

Owner may
summon
company
before two
justices.

Upon ap-
pearance or
proof of ser-
vice justices
to inquire
into grounds
of objection,

and may
order that
the lands
and mate-
rials shall
not be
taken.

If owners
object that
other lands
ought to be

8 VICT.
CAP. 30.

taken, jus-
tices may
summon
company and
owners of
such lands,

and deter-
mine which
lands shall
be taken.

Justices
may ad-
journ the
inquiry, and
summon
other
owners be-
fore them,
and deter-
mine finally
which lands
shall be
used.

Company
before en-
tering upon
lands to
give sureties
if required
for payment
of compensa-
tion.

Company
before

the company are hereinbefore authorized to use for the purposes aforesaid, would be more fitting to be used by the company, and if in such case the company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any justice, on the application of such owner or occupier, to summon the company and the owners and occupiers of such other lands to appear before two justices at a time and place to be named in such summons, such time not being more than fourteen days after such application nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to determine summarily which of the said lands shall be used by the company for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

38. If in the case last mentioned it shall appear to such justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the company are hereinbefore authorized to take or use for the purposes aforesaid, would be more fitting to be used by the company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said justices to adjourn such inquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such inquiry nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such justices to determine finally which lands shall be used for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

39. Before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side cuttings, or for obtaining materials or forming roads as aforesaid, the company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find two sufficient persons, to be approved of by a justice, in case the parties differ, who shall enter into a bond to such owner or occupier in a penalty of such amount as shall be approved of by such justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned.

40. Before the company shall use any such lands for any of the purposes aforesaid, they shall, if required so to

do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads, and in case of any difference between the owners or occupiers of such roads and lands and the company as to the necessity for such fences and gates, such fences and gates as any two magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads.

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using such
lands to se-
parate them
from ad-
joining
lands and
put up
fences and
gates.

41. That if any land shall be taken or used by the company, under the provisions of this or the special act, for the purpose of getting materials therefrom for the construction or repair of the railway, or the accommodation works connected therewith, they shall work the same in such manner as the surveyor or agent of the owner of such land shall direct, or, in case of disagreement between such surveyor or agent and the company, in such manner as any justice shall direct, on the application of either party, after notice of the hearing the application shall have been given to the other party.

Lands
taken for
getting ma-
terials, &c.
to be worked
as the sur-
veyor of
owner may
direct.

42. In all cases in which the company shall in exercise of the powers aforesaid enter upon any lands for the purpose of making spoil banks or side cuttings thereon, or for obtaining therefrom materials for the construction or repair of the railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands' Clauses Consolidation Act mentioned, would enable them to sell or convey lands to the company, at any time during the possession of any such lands by the company, and before such owners or occupiers shall have accepted compensation from the company in respect of such temporary occupation, to serve a notice in writing on the company, requiring them to purchase the said lands, or the estate and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands, and the amount of their claim in respect thereof; and the company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

Owners of
lands may
compel
company to
purchase
lands so
temporarily
occupied.

43. In any of the cases aforesaid, where the company

Company

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to make
compensa-
tion for
temporary
occupation
of lands,

and pay a
rent to be
fixed by
two justices,

and full
value of all
materials
taken.

Compensa-
tion to be
ascertained
under the 8
Vict. c. 18.

LANDS FOR
ADDITIONAL
STATIONS.

Company
may pur-
chase land
for addition
al stations,
&c.

and for
making
roads.

shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the special act granted, it shall be incumbent on the company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent to be fixed by two justices, in case the parties differ, and shall also within six months after they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the special act limited for the completion of the railway, pay to such owner and occupier, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers herein or in the special act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

44. The amount and application of the purchase money and other compensation payable by the company in any of the cases aforesaid shall be determined in the manner provided by the said Lands' Clauses Consolidation Act for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof.

45. And be it enacted, That it shall be lawful for the company, in addition to the lands authorized to be compulsorily taken by them under the powers of this or the special act, to contract with any party willing to sell the same for the purchase of any land adjoining or near to the railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say.)

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing machines, toll-houses, offices, warehouses, and other buildings and conveniences:

For the purpose of making convenient roads or ways to the railway, or any other purpose which may be requisite or convenient for the formation or use of the railway.

And with respect to the crossing of roads, or other interference therewith, be it enacted as follows:

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CROSSING OF
ROADS AND
CONSTRUCTION OF
BRIDGES.

Railway not to cross roads on the level unless otherwise provided by special act. Proviso as to highways.

46. If the line of the railway cross any turnpike road or public highway, then (except where otherwise provided by the special act) either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge, of the height and width and with the ascent or descent by this or the special act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expense of the company: provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.

If railway cross public roads on a level, company to erect gates and keep the same closed across such roads.

Board of Trade may order that such gates be kept closed across railway instead of across roads.

47. If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates: and such gates shall be kept constantly closed across such road on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein; provided always, that it shall be lawful for the Board of Trade, in any case in which they are satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road, should be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

48. Where the railway crosses any turnpike road on a level adjoining to a station, all trains on the railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the company

Trains not to cross roads adjoining stations at more than

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four miles
an hour.
Construc-
tion of
bridges
over roads.
Width of
arch.

Height of
arch over
public
roads.

Over pri-
vate roads.

Descent in
roads, &c.

Construc-
tion of
bridges over
railway.

Fence.

Width of
road.

Ascent of
road.

shall be subject to all such rules and regulations with regard to such crossings as may from time to time be made by the Board of Trade.

49. Every bridge to be erected for the purpose of carrying the railway over any road shall (except where otherwise provided by the special act) be built in conformity with the following regulations; (that is to say,)

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty-five feet if the arch be over a turnpike road, and of twenty-five feet if over a public carriage road, and of twelve feet if over a private road:

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a turnpike road, and fifteen feet for a space of ten feet if over a public carriage road; and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet:

The clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private carriage road:

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a turnpike road, one foot in twenty feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road, not being a tramroad or railroad, or if the same be a tramroad or railroad the descent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special act.

50. Every bridge erected for carrying any road over the railway shall (except as otherwise provided by the special act) be built in conformity with the following regulations; (that is to say,)

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a turnpike road, and twenty-five feet if a public carriage road, and twelve feet if a private road:

The ascent shall not be more than one foot in thirty feet if the road be a turnpike road, one foot in twenty feet if a public carriage road, and one foot in sixteen feet if a private carriage road, not being a tramroad

or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special act.

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51. Provided always, That in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width, in the case of a turnpike road or public carriage road, than twenty feet: provided also, that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the company shall be bound, at their own expense, to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road, not exceeding the width of such road as so widened, or the maximum width herein or in the special act prescribed for a bridge in the like case over or under the railway.

Width of
bridges
need not
exceed the
width of
roads in
certain
cases.

If road
afterwards
widened
bridges to
be also
widened.

52. Provided also, That if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the company, then the company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Existing
inclinations
of roads
crossed or
diverted
need not be
improved.

53. If, in the exercise of the powers by this or the special act granted, it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before
roads inter-
fered with,
others to be
substituted.

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If company do not substitute a road to forfeit 20*l.* per day.

Party suffering damage from interruption of road may recover in an action on the case.

Company to restore roads interfered with, or put substituted road into a permanently substantial condition.

Period for restoration.

If road be not restored or substituted road completed within period, company to for-

54. If the company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the trustees, commissioners, surveyor, or other person having the management of such road, if a public road, and shall be applied for the purposes thereof, or in case of a private road the same shall be paid to the owner thereof, and every such penalty shall be recoverable with costs by action in any of the superior courts.

55. If any party entitled to a right of way over any road so interfered with by the company shall suffer any special damage by reason that the company shall fail to cause another sufficient road to be made before they interfere with the existing road, it shall be lawful for such party to recover the amount of such special damage from the company, with costs, by action on the case in any of the superior courts, and that whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same.

56. If the road so interfered with can be restored compatibly with the formation and use of the railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the railway, the company shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient as the former road, or as near thereto as circumstances will allow; and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods after the first operation on the former road shall have been commenced, unless the trustees or parties having the management of the road to be restored by writing under their hands consent to an extension of the period, and in such case within such extended period; (that is to say,) if the road be a turnpike road, within six months, and if the road be not a turnpike road, within twelve months.

57. If any such road be not so restored, or the substituted road so completed as aforesaid, within the periods herein or in the special act fixed for that purpose, the company shall forfeit to the trustees, commissioners, surveyor, or other person having the management of the road interfered with by the company, if a public road, or if a private

road to the owner thereof, five pounds for every day after the expiration of such periods respectively during which such road shall not be so restored or the substituted road completed; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

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felt 5l. per
day.

58. If in the course of making the railway the company shall use or interfere with any road they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the company, or as to the repair thereof by them, such question shall be referred to the determination of two justices; and such justices may direct such repairs to be made in the state of such road, in respect of the damage done by the company, and within such period as they think reasonable, and may impose on the company, for not carrying into effect such repairs, any penalty not exceeding five pounds per day as to such justices shall seem just; and such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the company, if a public road, and be applied for the purposes of such road, or if a private road, the same shall be paid to the owner thereof: provided always, that in determining any such question with regard to a turnpike road, the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the company on such road in the course of the using thereof.

Company to
repair roads
used by
them.

Justices
may deter-
mine dis-
putes as to
repairs and
impose
penalty of
5l. per day.

Allowance
for tolls.

59. When the company shall intend to apply for the consent of two justices, as hereinbefore provided, so as to authorize them to carry the railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the petty sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the county, and also to be affixed upon the door of the parish church of the parish in which such crossing is intended to be made, or if there be no such church some other place to which notices are usually affixed; and if it appear to any two or more justices acting for the district in which such highway at the proposed crossing thereof is situate, and assembled in petty sessions, after such notice as aforesaid, that the railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such justices to consent that the same may be so carried accordingly.

Company to
give notice
of applica-
tion to jus-
tices for
consent to
level cross-
ings of
highways.

Justices
may con-
sent that
highways
be crossed
on level

60. If either party shall feel aggrieved by the determi- Parties ag-

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CAP. 20.

grieved may
appeal to
quarter
sessions
against the
determina-
tion of the
justices.

nation of such justices upon any such application as aforesaid, it shall be lawful for such party, in like manner and subject to the like conditions as are hereinafter provided in the case of appeals in respect of penalties and forfeitures, to appeal to the quarter sessions of the county or place in which the cause of appeal shall have arisen; and it shall be lawful for the justices in such quarter sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the railway across such highway as aforesaid, as to them shall seem fit, and to make such order concerning the costs both of the original application and of the appeal, as to them shall seem reasonable.

Company to
make ap-
proaches
and fences
to bridle-
ways and
footways
crossed on
the level.

61. If the railway shall cross any highway other than a public carriage way on the level, the company shall at their own expense make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails or other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates, and if the same shall be a footway, good and sufficient gates or stiles, on each side of the railway where the highway shall communicate therewith.

On failure
of company
justices
may order
approaches
and fences
to be made
to high-
ways cross-
ing on the
level.

62. If, where the railway shall cross any highway on the level, the company fail to make convenient ascents and descents or other convenient approaches, and such handrails, fence, gates, and stiles as they are hereinbefore required to make, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders within the parish or district where such crossing shall be situate, after not less than ten days' notice to the company, to order the company to make such ascent and descent or other approach, or such handrails, fences, gates, or stiles as aforesaid, within a period to be limited for that purpose by such justices; and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred.

Penalty for
non-com-
pliance.

SCREENS FOR
TURNPIKE
ROADS.

To be made,
if required,
by the Board
of Trade.

63. If the commissioners or trustees of any turnpike road, or the surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the railway, it shall be lawful for such commissioners, or trustees, or surveyor, after giving fourteen days' notice to the company, to apply to the Board of Trade with respect thereto; and if it shall appear to the

said board that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the company for the purpose of obviating or lessening such danger, and by such certificate to require the company to execute such works within a certain time after the service of such certificate, to be appointed by the said board.

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64. Where by any such certificate as aforesaid the company shall have been required to execute any such work in the nature of a screen, they shall execute and complete the same within the period appointed for that purpose in such certificate; and if they fail so to do, they shall forfeit to the said commissioners, or trustees, or surveyor, five pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

If company fail to construct such screens, to forfeit 5*l.* per day.

65. Where, under the provisions of this or the special act, or any act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by such justices; and if the company fail to comply with such order, they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

CONSTRUCTION OF BRIDGES.

Justices may order repair of bridges, fences, gates, &c.

Penalty for non-compliance.

66. And whereas expense might frequently be avoided, and public convenience promoted, by a reference to the Board of Trade upon the construction of public works of an engineering nature connected with the railway, where a strict compliance with the provisions of this or the special act might be impossible, or attended with inconvenience to the company and without adequate advantage to the public; be it enacted, that in case any difference in regard to the construction, alteration, or restoration of any road or bridge or other public work of an engineering nature, required by the provisions of this

Disputes as to the construction of certain roads, bridges, &c. may be referred to the Board of Trade.

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Board of
Trade may
authorize
other modes
of construction.

Private inter-
ests not
to be affect-
ed.

Authentica-
tion of cer-
tificates of
the Board
of Trade.

Service of
notices on
company.

To Board of
Trade.

WORKS FOR
ACCOMMODA-
TION OF
LANDS.

or the special act, shall arise between the company and any trustees, commissioners, surveyors, or other persons having the control of or being authorized by law to enforce the construction of such road, bridge, or work, it shall be lawful for either party, after giving fourteen days' notice in writing of their intention so to do to the other party, to apply to the Board of Trade to decide upon the proper manner of constructing, altering, or restoring such road, bridge, or other work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge, or other work, which shall appear to them either to be in substantial compliance with the provisions of this and the special act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge, or other work; and after any such certificate shall have been given by the Board of Trade, the road, bridge, or other work therein mentioned shall be constructed by the company in conformity with the terms of such certificate, and being so constructed shall be deemed to be constructed in conformity with the provisions of this and the special act: provided always, that no such certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

67. And be it enacted, That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the Board of Trade, and signed by some officer appointed for that purpose by the Board of Trade, shall for the purposes of this and the special act, and any act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document, by leaving the same at one of the principal offices of the railway company, or by sending the same by post addressed to the secretary at such office, shall be deemed good service upon the company; and all notices and other documents required by this or the special act to be given to or laid before the Board of Trade shall be delivered at, or sent by post addressed to, the office of the Board of Trade in London.

And with respect to works for the accommodation of lands adjoining the railway, be it enacted as follows:

68. The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway; (that is to say,)

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof:

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Gates,
bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

Fences.

Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed:

Drains.

Also proper watering places for cattle where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places:

Watering
places.

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of the making them.

Such works
not to ob-
struct
working of
railway.

69. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining

Differences
as to ac-
commoda-
tion works

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to be set-
tled by jus-
tices.

On failure
of company
owners may
execute
such works
at expense
of company.

Disputes as
to expenses
to be set-
tled by jus-
tices.

Owners
may make
additional
accommo-
dation
works at
their own
expense.

Such works
to be con-
structed
under the
superin-
tendence of
the com-
pany's en-
gineer.

Accommo-
dation
works not
to be requir-
ed after five
years.

Owners to
be allowed
to cross
railway

thereof, the same shall be determined by two justices; and such justices shall also appoint the time within which such works shall be commenced and executed by the company.

70. If for fourteen days next after the time appointed by such justices for the commencement of any such works the company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs; and the reasonable expenses thereof shall be repaid by the company to the party by whom the same shall so have been executed; and if there be any dispute about such expenses the same shall be settled by two justices: provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works.

71. If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed by such justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the company, or, in case of difference, as shall be authorized by two justices.

72. If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and specifications to be submitted to and approved by such engineer; nevertheless the company shall not be entitled to require, either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

73. The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the completion of the works and the opening of the railway for public use.

74. Until the company shall have made the bridges or other proper communications which they shall, under the provisions herein, or in the special act, or any act incor-

porated therewith, contained, have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

8 Vict.
CAP. 20.

until ac-
commoda-
tion works
are made

Proviso.

75. If any person omit to shut and fasten any gate set up at either side of the railway, for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Persons
omitting to
fasten gates
liable to
forfeit 2l.

76. And be it enacted, That this or the special act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons, with the consent of such persons, any collateral branches of railway to communicate with the railway, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of an act passed in the sixth year of the reign of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops;" and the company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to the provisions of the said last-mentioned act, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication, in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and the company shall not take any rate or toll or other monies for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions; (that is to say,)

BRANCH
RAILWAYS.

Owners
may make
private
branch rail-
ways com-
municating
with the
railway.
5 & 6 Vict.
c. 55, s. 12.

Restrictions
and con-
ditions.

No such branch railway shall run parallel to the railway

8 Vict.
CAP. 20.

The company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel :

The persons making or using such branch railways shall be subject to all bye-laws and regulations of the company from time to time made with respect to passing upon or crossing the railway, and otherwise ; and the persons making or using such branch railways shall be bound to construct, and from time to time, as need may require, to renew, the offset plates and switches according to the most approved plan adopted by the company, and under the direction of their engineer.

WORKING OF
MINES.

And with respect to mines lying under or near the railway, be it enacted as follows :

Company
not to be
entitled to
minerals
unless ex-
pressly pur-
chased.

77. The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased ; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Owners of
mines lying
near the
railway to
give notice
before
working.

78. If the owner, lessee, or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working ; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose ; and if it appear to the company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same ; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

Company
may pur-
chase such
mines.

Compensa-
tion.

If company
unwilling to
purchase,
owner may
work the
mine.

79. If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines

or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts.

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CAP. 20.

Damage to railway by improper working of mines to be made good by owners.

80. If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

If mines extend on both sides of railway owners may make airways and other communications.

Dimensions of such airways, &c.

81. The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

Company to make compensation to owners for loss by interruption of continuous working of such mines.

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CAP. 20.

and also to
owner of
surface
lands for
any airway
or other
work made
necessary by
the railway.

82. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

Company
may enter
and inspect
the working
of mines.

83. For better ascertaining whether any such mines are being worked, or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Owners re-
fusing to
allow in-
spection
liable to
forfeit 20*l*.

84. If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

If mines
improperly
worked,
company
may require
owners to
adopt means
for making
safe the
railway.

85. If it appear that any such mines have been worked contrary to the provisions of this or the special act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

PASSENGERS
AND GOODS
ON RAIL-
WAYS.

And with respect to the carrying of passengers and goods upon the railway, and the tolls to be taken thereon, be it enacted as follows:

Company
may employ
engines and
carriages,
and convey

86. It shall be lawful for the company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such pas-

engers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special act authorized to be taken by them.

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CAP. 20.

passengers
and goods.

87. It shall be lawful for the company from time to time to enter into any contract with any other company, being the owners or lessees or in possession of any other railway, for the passage over or along the railway by the special act authorized to be made of any engines, coaches, waggons, or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons, or other carriages of the company, or which shall pass over their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways.

Company
may contract with
other companies for
passage of
trains and
apportionment of
tolls.

88. Provided always, That no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into.

Such contracts not
to affect
tolls payable
by persons
not parties
thereto.

89. Nothing in this or the special act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Company
not to be
liable to a
greater extent
than
common
carriers.

90. And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties; it shall be lawful, therefore, for the com-

Company
may alter or
vary tolls.

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CAP. 20.

Tolls to be
charged
equally
under like
circum-
stances.

pany, subject to the provisions and limitations herein and in the special act contained, from time to time to alter or vary the tolls by the special act authorized to be taken, either upon the whole or upon any particular portions of the railway, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton per mile or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway under the same circumstances; and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the railway.

Tolls to be
calculated
on amalga-
mated rail-
ways as one
line.

91. And whereas authority has been given by various acts of parliament to railway companies to demand tolls for the conveyance of passengers and goods and for other services over the fraction of a mile equal to the toll which they are authorized to demand for one mile; therefore, in cases in which any railway shall be amalgamated with any other adjoining railway or railways, such tolls shall be calculated and imposed at such rates as if such amalgamated railways had originally formed one line of railway.

Company
may make
tolls.

92. It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the special act authorized to demand; and upon payment of the tolls from time to time demandable all companies and persons shall be entitled to use the railway, with engines and carriages properly constructed as by this and the special act directed, subject nevertheless to the provisions and restrictions of the said act of the sixth year of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops," and to the regulations to be from time to time made by the company by virtue of the powers in that behalf hereby and by the special act conferred upon them.

Persons
may use
railway on
payment of
tolls.

5 & 6 Vict.
c 55, s. 11.

List of tolls
to be ex-
hibited on a
board.

93. A list of all the tolls authorized by the special act to be taken, and which shall be exacted by the company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable.

94. The company shall cause the length of the railway to be measured, and milestones, posts, or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

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Railway to be measured and milestones set up.

95. No tolls shall be demanded or taken by the company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface, or destroy any such board or milestone, he shall forfeit a sum not exceeding five pounds for every such offence.

No tolls to be taken unless board exhibited and milestones set up.

96. The tolls shall be paid to such persons, and at such places upon or near to the railway, and in such manner and under such regulations, as the company shall, by notice to be annexed to the list of tolls, appoint.

Tolls to be paid as directed by company.

97. If, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the monies arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the monies arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto, or it shall be lawful for the company to recover any such tolls by action at law.

In default of payment of tolls company may detain and sell goods.

98. Every person being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls, at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of the number or quantity of goods conveyed by any such carriage, and of the point on the railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded or taken off the railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Owners of carriages and goods to give account of lading, &c. to collector of tolls.

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CAP. 20.

Owners, &c.
not giving
account of
lading, or
not pro-
ducing
way-bill or
avoiding
payment of
tolls liable
to penalty.

99. If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading, to such collector or other officer or servant of the company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the company a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundred weight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundred weight, (as the case may be,) which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Disputes as
to amount
of tolls to be
settled by
justice.

100. If any dispute arise concerning the amount of the tolls due to the company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the special act contained, the same shall be settled by a justice; and it shall be lawful for the company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Differences
as to
weights, &c.

101. If any difference arise between any toll collector or other officer or servant of the company and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the company, be liable to pay, the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any justice, on a summary application to him for that purpose, to have arisen from such detention.

Collectors
may detain
and weigh
carriages
and goods.

If account
of lading
incorrect ow-
ners to pay
costs of exa-
mination,
but if cor-
rect com-
pany to pay
costs and
damages.

Toll collec-
tors for
wrongful
detention of

102. If at any time it be made to appear to any justice, upon the complaint of the company, that any such detention, measuring, or examining of any carriage or goods, as

hereinbefore mentioned, was without reasonable ground, or that it was vexatious on the part of such collector or other officer, then the collector or other officer shall himself pay the costs of such detention and measuring, and the damage occasioned thereby; and in default of immediate payment of any such costs or damage the same may be recovered by distress of the goods of such collector, and such justice shall issue his warrant accordingly.

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CAP. 20.

goods liable
for costs
and damage

103. If any person travel or attempt to travel in any carriage of the company, or of any other company or party using the railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the company a sum not exceeding forty shillings.

Passengers
practising
frauds on
the com-
pany liable
to forfeit 2*l*.

104. If any person be discovered, either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the company, or such other company or party as aforesaid, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he be otherwise discharged by due course of law.

Parties
practising
frauds may
be detained
and taken
before jus-
tice.

105. No person shall be entitled to carry, or to require the company to carry, upon the railway, any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the company may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left, at the time of so sending, he shall forfeit to the company twenty pounds for every such offence; and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Persons
bringing
dangerous
goods on the
railway
without
notice liable
to forfeit 20*l*

106. If any collector of tolls or other officer employed by the company be discharged or suspended from his office, or die, abscond, or absent himself, and if such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other

Matters in
possession
or custody
of toll col-
lector to be
delivered to
company.

8 Vict.
CAP. 20.

when re-
quired.

Justice may
order posses-
sion to be
given.

Company to
prepare an-
nual ac-
count of
receipts and
payments,
and trans-
mit copy to
overseers,
clerks of the
peace, &c.

Company for
omission
liable to
forfeit 20l.

BYE-LAWS.

Company
may make
regulations.

Speed.

Times of
arrival.

Loading.

officer, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the company, or to any person appointed by them for that purpose, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters belonging to the company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the company to any justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the company, or any person appointed by them for that purpose.

107. And be it enacted, that the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special act, for the year ending on the thirty-first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty-first day of January then next; which last-mentioned account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of one shilling for every such inspection; provided always, that if the said company shall omit to prepare or transmit such account as aforesaid, if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds.

And with respect to the regulating of the use of the railway, be it enacted as follows:

108. It shall be lawful for the company, from time to time, subject to the provisions and restrictions in this and the special act contained, to make regulations for the following purposes; (that is to say.)

For regulating the mode by which and the speed at which carriages using the railway are to be moved or propelled;

For regulating the times of the arrival and departure of any such carriages;

For regulating the loading or unloading of such car-

riages, and the weights which they are respectively to carry; 8 VICT
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For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages; Receipt of
goods.

For preventing the smoking of tobacco, and the commission of any other nuisance, in or upon such carriages, or in any of the stations or premises occupied by the company; Prevention
of nul-
sances,

And, generally, for regulating the travelling upon or using and working of the railway: and other
purposes.

But no such regulation shall authorize the closing of the railway, or prevent the passage of engines or carriages on the railway, at reasonable times, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway or any part thereof. Proviso.

109. For better enforcing the observance of all or any of such regulations it shall be lawful for the company, subject to the provisions of an act passed in the fourth year of the reign of her present Majesty, intituled, "An Act for Regulating Railways," to make bye-laws, and from time to time to repeal or alter such bye-laws, and make others, provided that such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and any person offending against any such bye-law shall forfeit for every such offence any sum not exceeding five pounds, to be imposed by the company in such bye-laws as a penalty for any such offence; and if the infraction or non-observance of any such bye-law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, it shall be lawful for the company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye-law. Company
may make
and alter
bye-laws,
see 3 & 4
Vict. c. 97,
s. 8, 9.

Persons of-
fending
against bye-
laws liable
to forfeit 5l.

110. The substance of such last-mentioned bye-laws, when confirmed or allowed according to the provisions of any act in force regulating the allowance or confirmation of the same, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject matter of such bye-laws respectively, and so as to give public notice thereof to the parties Substance
of such bye-
laws to be
exhibited on
a board.

8 VICT.
CAP. 30.

interested therein or affected thereby; and such boards shall from time to time be renewed as often as the bye-laws thereon or any part thereof shall be obliterated or destroyed; and no penalty imposed by any such bye-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Such bye-laws to be binding on all parties.

111. Such bye-laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such bye-laws it shall be sufficient to prove that a printed paper or painted board, containing a copy of such bye-laws, was affixed and continued in manner by this act directed, and in case of its being afterwards displaced or damaged then that such paper or board was replaced as soon as conveniently might be.

LEASING OF
RAILWAY.

And with respect to leasing the railway, be it enacted as follows:

Lease of
railway to
contain all
usual and
proper
covenants.

112. Where the company shall be authorized by the special act to lease the railway or any part thereof to any company or person, the lease to be executed in pursuance of such authority shall contain all usual and proper covenants on the part of the lessee for maintaining the railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants, and agreements as are usually inserted in leases of a like nature.

Such lease to entitle lessees to use of railway and exercise of powers and privileges granted to company.

113. Such lease shall entitle the company or person to whom the same shall be granted to the free use of the railway or portion of railway comprised therein, and during the continuance of any such lease all the powers and privileges granted to and which might otherwise be exercised and enjoyed by the company, or the directors thereof, or their officers, agents, or servants, by virtue of this or the special act, with regard to the possession, enjoyment, and management of the railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee, and the officers and servants of such lessee under the same regulations and restrictions as are by this or the special act imposed on the company, and their directors, officers, and servants; and such lessee shall, with respect to the railway comprised in such lease, be subject to all the obligations by this or the special act imposed on the company.

CARRIAGES
AND
ENGINES.

And with respect to the engines and carriages to be brought on the railway, be it enacted as follows:

114. Every locomotive steam engine to be used on the railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming and so as to consume its own smoke; and if any engine be not so constructed the company or party using such engine shall forfeit five pounds for every day during which such engine shall be used on the railway.

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CAP. 20.

Engines to consume their smoke.

Penalty.

115. No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway unless the same have first been approved of by the company; and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway the company shall cause their engineer or other agent to examine such engine at any place within three miles' distance from the railway to be appointed by the owner thereof, and to report thereon to the company; and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine; and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and upon the engine being so repaired the company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration.

No engines to be brought on railway until approved of by company and certificate of approval given.

Engines out of repair or unfit to be used may be removed.

116. If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine on the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company, and obtained such certificate of approval, every such person shall in any of the cases aforesaid forfeit to the company a sum not exceeding twenty pounds; and in any such case it shall be lawful for the company to remove such engine from the railway.

Persons using engines without certificate, or not removing improper engines after notice, liable to forfeit 20L

117. No carriage shall pass along or be upon the rail. Carriages

**S VIOL.
CAP. 20.**

to be constructed according to company's regulations.

way (except in directly crossing the same, as herein or by the special act authorized,) unless such carriage be at all times, so long as it shall be used or shall remain on the railway, of the construction and in the condition which the regulations of the company for the time being shall require; and if any dispute arise between the company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the company, such dispute shall be settled by arbitration.

Such regulations to apply also to company's carriages.

118. The regulations from time to time to be made by the company respecting the carriages to be used on the railway shall be drawn up in writing, and be authenticated by the common seal of the company, and shall be applicable alike to the carriages of the company and to the carriages of other companies or persons using the railway; and a copy of such regulations shall, on demand, be furnished by the secretary of the company to any person applying for the same.

If carriages used contrary to such regulations owner liable to forfeit 10*l*.

119. If any carriage, not being of such construction or in such condition as the regulations of the company for the time being require, be made to pass or be upon any part of the railway (except as aforesaid), the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the company a sum not exceeding ten pounds for every such offence, and it shall be lawful for the company to remove any such carriage from the railway.

Owner's name, &c. to be registered and painted on carriages.

120. The respective owners of carriages using the railway shall cause to be entered with the secretary or other officer of the company appointed for that purpose the names and places of abode of the owners of such carriages respectively, and the numbers, weights, and gauges of their respective carriages; and such owners shall also, if so required by the company, cause the same particulars to be painted in legible characters on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the company, permit his carriage to be weighed, measured, or gauged at the expense of the company.

If owner fail to register carriage may be removed.

121. If the owner of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the company to refuse to allow such carriage to be brought upon the railway, or to remove the same therefrom until such compliance.

Carriages improperly loaded, or suffered to obstruct the

122. If the loading of any carriage using the railway be such as to be liable to collision with other carriages properly loaded, or to be otherwise dangerous, or if the person having the care of any carriage or goods upon the

railway suffer the same or any part thereof to remain on the railway so as to obstruct the passage or working thereof, it shall be lawful for the company to cause such carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expenses occasioned by such unloading, removal, or detention be paid.

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CAP. 30.

road, may
be unloaded
or removed.

123. The company shall not be liable for any damage or loss occasioned by any such unloading, removal, or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed, or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

Company
not to be
liable for
damage by
such
unloading,
&c.

124. The respective owners of engines and carriages passing or being upon the railway shall be answerable for any trespass or damage done by their engines or carriages or by any of the servants or persons employed by them, to or upon the railway, or the machinery or works belonging thereto, or to or upon the property of any other person; and every such servant or other person may lawfully be convicted of such trespass or damage before any two justices of the peace, either by the confession of the party offending, or upon the oath of some credible witness; and upon such conviction every such owner shall pay to the company or to the person injured, as the case may be, the damage to be ascertained by such justices, so that the same do not exceed fifty pounds.

Owners of
engines and
carriages
liable for
damage
done by
their
servants.

125. It shall be lawful for any owner of any engine or carriage who shall pay the amount of any damage caused by the misfeasance or negligence of any servant or other person employed by him to recover the amount so paid by him from such servant or other person by the same means as the company are enabled to recover the amount of such damage from the owner of any engine or carriage.

Owners may
recover the
amount of
such
damage
from their
servants.

And with respect to the settlement of disputes by arbitration, be it enacted as follows:

ARBITRA-
TION.

126. When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company, under the hand of the secretary or any two of the directors of the com-

When ques-
tions are to
be deter-
mined by
arbitration
each party
to appoint
an arbitra-
tor.

8 VIOT.
CAP. 20.

Appoint-
ment not to
be revoked
without con-
sent.

On failure of
one party the
other may
appoint ar-
bitrator to
act for both.

If arbitrator
die or re-
sign another
to be ap-
pointed.

Arbitrators
to appoint
umpire.

If umpire
die another
to be ap-
pointed.

Board of
Trade may
appoint um-
pire, on
neglect of
arbitrators.

pany, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

127. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed "ex parte;" and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

128. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

129. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration appoint an umpire; and the decision of such umpire on the matters on which the

arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

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CAP. 20.

130. If, where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special act, in the same manner as if such arbitrator had not been appointed.

If single arbitrator die the matter to begin de novo.

131. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed "ex parte," and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If either arbitrator refuse to act the other to proceed.

132. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within 21 days, the matter to go to the umpire.

133. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may call for documents and administer oaths.

134. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a justice, make and subscribe the following declaration; that is to say,

Arbitrator and umpire to make and subscribe declaration.

"I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of the act [naming the special act]. A.B.

"Made and subscribed in the presence of"

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Declaration to be annexed to award.

135. Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators.

Costs to be settled by arbitrators.

136. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to arbitration.

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CAP. 20.

Award not
to be set
aside.

SERVICE OF
NOTICES
UPON COM-
PANY.

TENDER OF
AMENDS.

After tender
of sufficient
amends
party not to
recover in
any action.

RECOVERY
OF DAMAGES
AND
PENALTIES.

Damages
not other-
wise provi-
ded for may
be deter-
mined by
justices,

and reco-
vered by
distress.

Distress
against
company
may be re-
covered by
distress of

137. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form.

138. And be it enacted, that any summons or notice, or any writ, or other proceeding at law or in equity requiring to be served upon the company, may be served by the same being left at or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company.

139. And be it enacted, that if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows:

140. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice, on application, shall issue their or his warrant accordingly.

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and

the justices aforesaid, or either of them, on application shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company, coming into his custody or control, or he may sue the company for the same.

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CAP. 30.

goods of
treasurer.
Notice.

Treasurer
may sue
company.

142. Where in this or the special act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one justice or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

In questions
of damages,
&c. justices
may issue
summons,

and upon
appearance
or proof of
service de-
termine.

Costs.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Company to
publish
short partic-
ulars of
offences for
which any
penalty is
imposed, and
affix the
same to a
board,

and renew
when oblite-
rated.

144. If any person pull down or injure any board put up or affixed as required by this or the special act for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall

Penalty for
defacing
boards used
for such
publication.

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CAP. 20.

forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalties to be recovered before two justices, who may issue summons. [Amended by 47 & 48 Vict. c. 43, s. 4.]

145. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons, and every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or, in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

and upon appearance or proof of service convict the offender.

Costs.

Penalties may be levied by distress. [Amended by 47 & 48 Vict. c. 43, s. 4.]

146. If forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices, or either of them, shall issue their or his warrant of distress accordingly.

Justice may detain offenders until return made to warrant of distress. [Amended by 47 & 48 Vict. c. 43, s. 4.]

147. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall by

If no sufficient distress can be had, offender may be committed.

warrant cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months; unless such penalty or forfeiture and costs be sooner paid and satisfied.

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CAP. 20.

148. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods of party.

Overplus to be repaid.

149. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not to be unlawful for want of form.

150. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district.

Justices may award one half of penalty to informer and remainder to overseers.

[Repealed by 38 & 39 Vict. c. 66, s. 1.]

151. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Penalties to be sued for within six months.

[Amended by 47 & 48 Vict. c. 43, s. 4.]

152. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as

Damage to be made good in addition to penalty.

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CAP. 20.

well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Justice may
summon
witnesses.
[Repealed
so far as
relates to
any matter
to which the
Summary
Jurisdiction
Acts apply,
by 47 & 48
Vict. c. 43,
s. 4.]

153. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Officers of
company
may detain
offenders
whose
names
shall be
unknown.

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Form of
conviction.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

155. *The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule to this act annexed.*

Proceedings
not vacated
for want of
form, &c.

156. No proceeding in pursuance of this or the special act or any act incorporated therewith shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Parties ag-
grieved may
appeal to
quarter
sessions.
[Amended
by 47 & 48
Vict. c. 43,
s. 4.]

157. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such deter-

mination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

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Notice.

Securities.

158. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court may
make such
order as
they think
reasonable.

159. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for Regulating the Police Courts in the Metropolis;" and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

Receiver of
metropolitan
police
district to
receive
penalties
incurred
within his
district.

2 & 3 Vict.
c. 71.

8 VICT.
CAP. 20.

Persons
giving false
evidence
liable to
penalties.

USHER'S
POUNDAGE.

Money paid
into the
bank of
Ireland to
be exempt
from.

[Repealed
by 38 & 39
Vict. c. 68,
s. 1.]

Company to
keep copy of
special act
at their
principal
office, and
deposit
copies with
clerks of
the peace.

7 W. 4.
& 1 Vict. c.
83.

Penalty on
company
failing to
keep or de-
posit copies.

Scotland.

[Repealed
by 38 & 39
Vict. c. 60,
s. 1.]

160. And be it enacted, That every person who, upon any examination upon oath, under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

161. And be it declared and enacted, That all sums of money which have been or shall be paid into the bank of Ireland in the name and with the privity of the accountant-general of the Court of Chancery of Ireland, under the provisions of an act passed in the second year of the reign of her present Majesty, intituled "An Act to Provide for the custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament," shall and may be paid out and applied under any order of the said Court of Chancery exempt from usher's poundage.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows :

162. The company shall at all times after the expiration of six months after the passing of the special act keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them ; shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act, so printed as aforesaid ; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

163. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

164. And be it enacted, That this act shall not extend to Scotland.

165. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULE referred to by the foregoing Act.
to wit.

8 VICT.
CAP. 20.

Be it remembered, That on the day of in
the year of our Lord A.B. is convicted before us, C.,
D., two of her Majesty's justices of the peace for the county
of [here describe the offence generally, and the
time and place when and where committed], contrary to the
[here name the special act]. Given under our hands and
seals the day and year first above written.
C.
D.

Form of
conviction.
[Repealed
by 47 & 48
Vict. c. 43,
s. 4.]

CONSTABLES NEAR PUBLIC WORKS, (IRELAND.)

8 & 9 VICT. cap. 46.

An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland.
[21st July, 1845.]

Preamble. WHEREAS it is expedient to provide for the appointment See 11 & 12 and payment of additional head and other constables for Vict. c. 72, keeping the peace, and for the protection of the inhabitants and the security of property, in the neighbourhood of railway works and other public works in Ireland :
a. 7.

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same :

Additional head and other constables may be appointed by the lord lieutenant to keep the peace near the works of railways, &c. in Ireland.

1. That from and after the passing of this act, in any case in which the works of any railway, canal, or other public work of a similar nature shall be in progress of construction in Ireland, upon the application of the company or other parties carrying on any such public work, or upon the application of two or more justices of the peace of the county acting in the petty sessions of the district in or through which any such public work may be in the course of construction, to whom it shall be made appear, on the oath of two or more credible witnesses, that the appointment of additional constables for the keeping of the peace, and for the protection of the inhabitants, and the security of property, in the neighbourhood of such works, is necessary in consequence of the behaviour or reasonable apprehension of the behaviour of the persons employed in the said works, it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, if he or they shall so think fit, from time to time to order and direct that, in addition to the number of head and other constables whom the said lord lieutenant or other chief governor or governors of Ireland is or are authorized to appoint by virtue of an act passed in the sixth year of the reign of his late majesty, intituled "An Act to consolidate the Laws relating to the Constabulary Force in Ireland," and the other acts amending the same, such number of head and other constables as he or they shall think fit, not exceeding in any case the number specified in any such application as aforesaid, shall be appointed and em-

6 & 7 W
4, c. 13.

ployed during the construction of such public works, in aid of and in conjunction with the said constabulary force in such county, county of a city, county of a town, or place, near to the said public works so in progress of construction, as shall be mentioned in the said order, and shall remain there for such length of time, or remove to or remain at such other place or places near to such public works for such time or times, as shall be mentioned or directed by such order, or any other order or orders which may from time to time be made by such lord lieutenant or other chief governor or governors or by the inspector general of the said constabulary force, under the control and directions of the said lord lieutenant or other chief governor or governors; and such constables may in like manner, by any such order, be reduced in number, or wholly removed from the neighbourhood of such works; and the head and other constables so appointed shall, during the period of such employment, have the same amount of pay and allowances, and the same rights, powers and authorities, privileges and advantages, and be subject to the same provisions and enactments, rules, regulations, and orders, and be in all respects in the same situation in the county, county of a city, or county of a town in which they shall be stationed, as far as the circumstances of the case will admit, as if they had been appointed to and formed part of the constabulary force established in and for such county, county of a city, or county of a town.

2. And be it enacted, that the inspector general of the said constabulary force, with the assistance of the receiver of the said force, shall from time to time, or as often as he shall think convenient, prepare and certify under his hand a detailed account of the expense incurred for the pay, salary, clothing and equipment, lodging, and other allowances of such men so appointed and employed as aforesaid, which expense, when approved and certified by the chief or under secretary of such lord lieutenant or other chief governor or governors, the said company or parties, or their agent, shall, upon demand, pay to the said receiver, to be placed to the credit of the county, county of a city, or county of a town in which such constables as aforesaid shall have been so employed.

3. And be it enacted, that in all cases where the company or other parties carrying on such public work shall refuse or neglect, during fourteen days next after demand thereof, to pay any such expense, or any part thereof, as shall have been so certified and approved as aforesaid, the same shall and may be sued for in any of the superior courts, at the suit of her majesty's attorney general

Expense of additional head and other constables to be paid by the company or parties carrying on such works.

If the company or parties neglect to pay the expense, it may be re-

covered at the suit of her majesty's attorney general for Ireland, or by distress and sale of the goods of the company.

for Ireland, as a debt due to her majesty, or, upon production of such account, so certified and approved, before any two justices of the county, county of a city, or county of a town in which such constables shall have been so employed as aforesaid; and upon proof on oath of such demand made as aforesaid of such company or parties, or any officer superintending such public works, and upon the application of the said receiver of the constabulary force, or any person by him authorized in writing, it shall be lawful for such justices, by their warrant under their hands and seals (which they are hereby authorized and required to grant), to cause the amount of such account to be levied, together with the expenses of levying the same, by distress and sale of the goods and chattels of the company or other parties carrying on such public works as aforesaid; and the surplus, if any, arising from such distress and sale, after deducting the amount of such account, together with the reasonable expenses attendant on such distress and sale, shall be rendered to the said company or parties.

Alteration of act.

4. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament.

8 & 9 VICT. cap. 96.

An Act to restrict the powers of selling or leasing Railways contained in certain Acts of Parliament relating to such Railways. [4th August, 1845.]

Preamble. WHEREAS provisions have been introduced in various acts of parliament, during the present session of parliament, relating to railways, giving to railway companies general powers of granting or accepting a lease, sale, or transfer of their own or other lines of railway; and it is expedient that such powers should be restrained:

No railway to be leased or transferred, unless under a distinct provision of an Act specifying the parties.

Be it therefore enacted by the queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that it shall not be lawful for the company of proprietors of any railway, by virtue of any powers contained in any act passed in the present session, to make or grant, or for any other railway company or party, by virtue of any such powers, to accept, a sale, lease, or other transfer of any railway, unless under the authority of a distinct provision in some act of parliament to that effect specifying by name the railway to be so leased, sold, or transferred, and the company or party by whom such lease, sale, or transfer may be respectively made, granted, or accepted.

8 & 9 VICT. cap. 113.

An Act to facilitate the Admission in Evidence of certain official and other Documents.

[8th August, 1845.]

WHEREAS it is provided by many statutes that various certificates, official and public documents, documents and proceedings of corporations and of joint stock and other companies, and certified copies of documents, bye laws, entries in registers and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes: And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine; and it is expedient to facilitate the admission in evidence of such and the like documents:

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever by any act now in force or hereafter to be in force any certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, or either House of Parliament, or any committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

2. And be it enacted, That all courts, judges, justices, Courts, &c. masters in chancery, masters of courts, commissioners to take judicially acting, and other judicial officers shall hence-

notice of signature of judges, &c.

forth take judicial notice of the signature of any of the equity or common law judges of the superior courts at Westminster, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

Private acts, printed by Queen's printer, &c. admissible as evidence.

3. And be it enacted, That all copies of private and local and personal acts of Parliament not public acts, if purporting to be printed by the Queen's printers, and all copies of the journals of either House of Parliament, and of royal proclamations, purporting to be printed by the printers to the crown or by the printers to either House of Parliament, or by any or either of them, shall be admitted as evidence thereof by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

Persons forging seal, stamp, or signature of certain documents, or print any private act with false purport, guilty of felony.

4. Provided always, and be it enacted, That if any person shall forge the seal, stamp or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, by law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, by law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the printers to the crown, or by the printers to either House of Parliament, or by any or either of them, or if any person shall tender in evidence any such copy, knowing that the same was not printed by the person or persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with

By the Law of Evidence Amendment Act, 14 & 15 Vict. c. 99, s. 17, offenders under this act may be dealt with in any county or place in which apprehended or in custody.

hard labour: Provided also, that whenever any such document as beforementioned shall have been received in evidence by virtue of this act, the court, judge, commissioner, or other person officiating judicially who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such court, or the court to which such master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster on application being made for that purpose.

5. And be it enacted, That this act shall not extend to Scotland.

6. And be it enacted, That this act may be repealed, Act may be altered, or amended during this present session of Par- amended.
liament.

7. And be it enacted, That this act shall take effect Com-
from the first day of November next after the passing mendment.
thereof.

9 VICT. cap. 20.

An Act to amend an Act of the Second Year of her present Majesty, for providing for the Custody of certain Monies paid, in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament.

[18th June, 1846.]

WHEREAS an act was passed in the second year of the Preamble.
reign of her present Majesty Queen Victoria, intituled
"An Act to provide for the Custody of certain Monies 1 & 2 Vict.
paid, in pursuance of the Standing Orders of either House c. 117.
of Parliament, by Subscribers to Works or Undertakings
to be effected under the Authority of Parliament:" And
whereas it is expedient that the said act should be re-
pealed, and should be re-enacted, with such modifications,
extensions, and alterations as after mentioned:

1. Be it therefore enacted by the Queen's most excellent Recited act
Majesty, by and with the advice and consent of the Lords repealed.

Monies already paid in to be dealt with as directed by former act.

Authority to deposit.

spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said act shall be and is hereby repealed : Provided always, that all acts done under the provisions of the said act shall be good, valid, and effectual to all intents and purposes, and that all sums of money paid under the provisions of the said act shall be dealt with in all respects as if this act had not been passed.

2. And be it enacted, That in all cases in which any sum of money is required by any standing order of either House of Parliament, either now in force or hereafter to be in force, to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, if the director or person or directors or persons having the management of the affairs of such work or undertaking, not exceeding five in number, shall apply to one of the clerks in the office of the clerk of the Parliaments with respect to any such money required by any standing order of the Lords spiritual and temporal in Parliament assembled, or to one of the clerks of the private bill office of the House of Commons with respect to any such money required by any standing order of the Commons in Parliament assembled, to be deposited, it shall be lawful for the clerk so applied to, by warrant or order under his hand, to direct that such sum of money shall be paid in manner hereinafter mentioned ; (that is to say,) into the Bank of England, in the name and with the privity of the accountant-general of the Court of Chancery in England, if the work or undertaking in respect of which the sum of money is required to be deposited is intended to be executed in that part of the United Kingdom called England, or into any of the banks in Scotland established by act of Parliament or royal charter, in the name and with the privity of the Queen's remembrancer of the Court of Exchequer in Scotland, at the option of the person or persons making such application as aforesaid, in case such work or undertaking is intended to be executed in that part of the United Kingdom called Scotland, or into the Bank of Ireland, in the name and with the privity of the accountant-general of the Court of Chancery in Ireland, in case such work or undertaking is intended to be made or executed in that part of the United Kingdom called Ireland ; and such warrant or order shall be a sufficient authority for the accountant-general of the Court of Chancery in England, the Queen's remembrancer of the Court of Exchequer in Scotland, and the accountant-general of the Court of Chancery in Ireland, respectively, to permit the sum of money directed to be paid by such warrant or order to be placed to an account opened or to

be opened in his name in the bank mentioned in such warrant or order.

3. And be it enacted, That it shall be lawful for the Payment of person or persons named in such warrant or order, or the deposit. survivors or survivor of them, to pay the sum mentioned in such warrant or order into the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall be directed to be paid by such warrant or order, to be placed to his account there *ex parte* the work or undertaking mentioned in such warrant or order, pursuant to the method prescribed by any act or acts for the time being in force for regulating monies paid into the said courts, and pursuant to the general orders of the said courts respectively, and without fee or reward; and every such sum so paid in, or the securities in or upon which the same may be invested as hereinafter mentioned, or the stocks, funds, or securities authorized to be transferred or deposited in lieu thereof as hereinafter mentioned, shall there remain until the same, with all interest and dividends, if any, accrued thereon, shall be paid out of such bank, in pursuance of the provisions of this act: Provided always, that in case any such If money . director or person, directors or persons having the previously management of any such proposed work or undertaking invested in as aforesaid, shall have previously invested in the three government per centum consolidated or the three per centum reduced securities bank annuities, exchequer bills or other government securities such securities to be deposited. standing order of either House of Parliament as aforesaid to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, it shall be lawful for the person or persons named in such warrant or order, or the survivors or survivor of them, to deposit such exchequer bills or other government securities in the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall by such warrant or order be directed to be paid, or to transfer such government stocks or funds into the name of the officer or person; and such transfer or deposit shall be directed by such clerk of the office of the clerk of the Parliaments, or such clerk of the private bill office of the House of Commons, as the case may be, in lieu of payment of so much of the sum of money required to be deposited as aforesaid as the same exchequer bills or other the government stocks or funds will extend to satisfy at the price at which the same were originally purchased by the said person or persons, director or directors as aforesaid, such price to be proved by production of the broker's certificate of such original purchase.

**Investment
of deposit.**

4. And be it enacted, That if the person or persons named in such warrant or order, or the survivors or survivor of them, desire to have invested any sum so paid into the bank of England or the bank of Ireland, or any interest or dividend which may have accrued on any stocks or securities so transferred or deposited as aforesaid, the court in the name of whose accountant-general the same may have been paid may, on a petition presented to such court in a summary way by him or them, order that such sum or such interest or dividends shall, until the same be paid out to the parties entitled to the same in pursuance of this act, be laid out in the three per centum consolidated or three per centum reduced bank annuities, or any government security or securities, at the option of the aforesaid person or persons. or the survivor or survivors of them

**Repayment
of deposit.**

Sec 28 &
29 Vict. c.
27, s. 8.

5. And be it enacted, That on the termination of the session of Parliament in which the petition or bill for the purpose of making or sanctioning any such work or undertaking shall have been introduced into Parliament, or if such petition or bill shall be rejected or finally withdrawn by some proceeding in either House of Parliament, or shall not be allowed to proceed, or if the person or persons by whom the said money was paid or security deposited shall have failed to present a petition, or if an act be passed authorizing the making of such work or undertaking, and if in any of the foregoing cases the person or persons named in such warrant or order, or the survivors or survivor of them, or the majority of such persons, apply by petition to the court in the name of whose accountant-general the sum of money mentioned in such warrant or order shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred as aforesaid, or to the court of exchequer in Scotland, in case such sum of money shall have been paid in the name of the said Queen's remembrancer, the court in the name of whose accountant-general or Queen's remembrancer such sum of money shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred, shall by order direct the sum of money paid in pursuance of such warrant or order, or the stocks, funds, or securities in or upon which the same may have been invested, and the interest or dividends thereof, or the exchequer bills, stocks, or funds so deposited or transferred as aforesaid, and the interest and dividends thereof, to be paid or transferred to the party or parties so applying, or to any other person or persons whom they may appoint in that behalf; but no such order shall be made in the case of any such petition or bill being rejected or not

being allowed to proceed, or being withdrawn or not being presented, or of an act being passed authorizing the making of such work or undertaking, unless upon the production of the certificate of the chairman of committees of the House of Lords with reference to any proceeding in the House of Lords, or of the Speaker of the House of Commons with reference to any proceeding in the House of Commons, that the said petition or bill was rejected or not allowed to proceed, or was withdrawn during its passage through one of the Houses of Parliament, or was not presented, or that such act was passed, which certificate the said chairman or Speaker shall grant on the application in writing of the person or persons, or the majority of the persons named in such warrant, or the survivor or survivors of them: Provided always, that the granting of any such certificate, or any mistake or error therein or in relation thereto, shall not make the chairman or Speaker signing the same liable in respect of any monies, stocks, funds, and securities which may be paid, deposited, invested, or transferred in pursuance of the provisions of this act, or the interest or dividends thereof. Proviso.

9 & 10 VICT. cap. 57.

An Act for regulating the Gauge of Railways.

[18th August, 1846.]

WHEREAS it is expedient to define the gauge on which Preamble.
railways shall be constructed.

1. Be it enacted by the Queen's most excellent Majesty, *On what*
by and with the advice and consent of the Lords spiritual and *gauge rail-*
temporal, and Commons, in this present Parliament assem- *ways shall*
bled, and by the authority of the same, That after the *be made.*
passing of this act it shall not be lawful (except as herein-
after excepted) to construct any railway for the conveyance
of passengers on any gauge other than four feet eight inches
and half an inch in Great Britain, and five feet three inches
in Ireland: Provided always, that nothing hereinbefore *Proviso.*
contained shall be deemed to forbid the maintenance and
repair of any railway constructed before the passing of this
act on any gauge other than those hereinbefore specified,
or to forbid the laying of new rails on the same gauge on
which such railway is constructed within the limits of de-
viation authorized by the several acts under the authority
of which such railways are severally constructed.

2. And be it enacted, That nothing hereinbefore con- *Exception*
tained shall apply to any railway constructed or to be con- *of certain*
structed under the provisions of any present or future act *railways.*
containing any special enactment defining the gauge or
gauges of such railway, or any part thereof, or to any rail-
way which is in its whole length southward of the Great
Western Railway, or to any railway in any of the counties
of Cornwall, Devon, Dorset, or Somerset, for which any
act has been or shall be passed in this session of Parliament,
or to any railway in any of the last-mentioned counties now
in course of construction, or to the two railways severally
to be constructed under the authority of two acts passed in
this session of Parliament, severally intituled "An Act for
making a Railway from the Great Western Railway at
West Drayton to Uxbridge in Middlesex," and "An Act
for making a Railway from the Great Western Railway at
Maidenhead in Berkshire to the town of High Wycombe
in the county of Buckingham;" or to so much of an act
passed in this session, intituled "An Act to authorize cer-
tain Extensions of the Line of the Oxford, Worcester, and
Wolverhampton Railway, and to amend the act relating
thereto, as authorizes the construction of a Branch Railway
from the Oxford, Worcester, and Wolverhampton Railway

to the town of Witney in the county of Oxford;" or to an act passed or which may be passed in this session of Parliament, "to authorize the construction of a railway from Melin-y-Manach to Rhydydefydd in the county of Glamorgan."

Certain railways to be on the broad gauge.

3. And be it enacted, That the several railways authorized to be constructed by an act passed in the last session of Parliament, intituled "An Act for making a Railway to be called The South Wales Railway," and by an act also passed in the last session of Parliament, intituled "An Act for making a Railway from Monmouth to Hereford, with branches therefrom to Westbury and to join the Forest of Dean Railway," and by two acts passed in this session of Parliament, severally intituled "An Act for completing the Line of the South Wales Railway, and to authorize the Construction of an Extension and certain Alterations of the said Railway, and certain Branch Railways in connexion therewith," and "An Act for making a Railway communication between the city of Bristol and the proposed South Wales Railway in the county of Monmouth, with a Branch Railway therefrom," shall be constructed on the gauge of seven feet.

Gauge not to be altered.

4. And be it enacted, That it shall not be lawful after the passing of this act to alter the gauge of any railway used for the conveyance of passengers.

Provision as to the Oxford and Rugby, and Oxford, Worcester, and Wolverhampton railways.

5. And be it enacted, That nothing hereinbefore contained shall be deemed to affect the provisions of two acts passed in the last session of Parliament, respectively intituled "An Act for making a Railway from the city of Oxford to the town of Rugby," and "An Act for making a Railway from Oxford to Worcester and Wolverhampton," with respect to the gauge on which they are to be formed, or the additional rails which, according to the several provisions of the last two recited acts, are to be or may be laid down and maintained on the railways thereby authorized, or with respect to the powers thereby conferred on the commissioners of her Majesty's privy council for trade and foreign plantations concerning the construction and use of the railways thereby authorized.

Penalty on company for constructing railways contrary to this act.

6. And be it enacted, That if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this act, the company authorized to construct the railway, or in the case of any demise or lease of such railway, the company for the time being having the control of the works of such railway, shall forfeit ten pounds for every mile of such railway which shall be so unlawfully constructed or altered, during every day that the same shall continue so unlawfully constructed or

altered; and in estimating the amount of any such penalty any distance less than one mile shall be estimated as a mile.

7. And be it enacted, That, over and above the penalty **Railways** hereinbefore provided, if any railway used for the convey- **constructed** **contrary to** **this act** **abated.** **ance of passengers shall be constructed or altered contrary to the provisions of this act, it shall be lawful for the com-** **missioners of her Majesty's woods, forests, land revenues, works, and buildings, or for the lords of the committees of her Majesty's privy council for trade and foreign planta-** **tions, to abate and remove the same or any part thereof so constructed or altered contrary to the provisions of this act, and to restore the site thereof to its former condition.**

8. And be it enacted, That all penalties under this act **Recovery of** **may be recovered from the company liable to pay and make penalties.** **good the same, as under the provisions of an act passed in the last session of Parliament, intituled "An Act for con-** **8 & 9 Vict-** **solidating in one act certain provisions usually inserted in c. 20.** **acts authorizing the making of railways," a penalty for any infringement of the last-recited act is recoverable against a company authorized to construct a railway.**

9. And be it enacted, That this act may be amended **Act may be** **amended.** **or repealed by any act to be passed in this session of Par-** **[Repealed** **by 38 & 39** **Vict. c. 68,** **a. 1.]** **liament.**

ACCIDENTS COMPENSATION, 1846.

9 & 10 Vict. cap. 93. An Act for compensating
the Families of Persons killed by Accidents.
[26th August, 1846.]

[Amended
by 27 & 28
Vict. c. 95.]

WHEREAS no action at law is now maintainable against a person who by his wrongful act, neglect, or default may have caused the death of another person, and it is oftentimes right and expedient that the wrongdoer in such case should be answerable in damages for the injury so caused by him: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

An action to be maintainable against any person causing death through neglect, &c., notwithstanding the death of the person injured.

Action to be for the benefit of certain relations, and shall be brought by and in the name of executor or administrator of the deceased.

Only one action shall lie, and to be

1. That whensoever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

2. And be it enacted, That every such action shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties in such shares as the jury by their verdict shall find and direct.

3. Provided always, and be it enacted, That not more than one action shall lie for and in respect of the same

9 & 10 VICT. c. 93, i.

subject matter of complaint; and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

9 & 10 VICT.
CAP. 93.

4. And be it enacted, That in every such action the plaintiff on the record shall be required, together with the declaration, to deliver to the defendant or his attorney a full particular of the person or persons for whom and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

commenced
within 12
months.

Plaintiff to
deliver a full
particular of
the person
for whom
such dam-
ages shall
be claimed.

5. And be it enacted, That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother, and stepfather and stepmother; and the words "child" shall include son and daughter, and grandson and granddaughter, and stepson and stepdaughter.

Construc-
tion of act.

6. And be it enacted, That this act shall come into operation from and immediately after the passing thereof, and that nothing therein contained shall apply to that part of the United Kingdom called Scotland.

Act to take
effect after
passing, and
not to apply
to Scotland

7. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of Parliament.

Act may be
amended,
&c.

10 & 11 VICT. cap. 85.

An Act for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office. (So far as relates to Railways.) [22nd July, 1847.]

Power to send mails by railways in manner prescribed by 1 & 2 Vict. c. 98, without a guard.

16. AND whereas by an act passed in the second year of the reign of her present majesty, intituled, "An Act to provide for the Conveyance of the Mails by Railways," provision is made for the transmission of the mails by railways; be it enacted, That it shall be lawful for the postmaster general to require, in the manner prescribed by the said last-mentioned act, that any mails and post letter bags shall be conveyed and forwarded by any railway company on their railway, under and pursuant to the said act, notwithstanding any guard or other officer of the post office shall not be sent with the same or in charge thereof, and such mails and post letter bags shall be conveyed and forwarded by such railway company accordingly.

11 & 12 VICT. cap. 72.

An Act to amend the Acts relating to the Constabulary Force in Ireland, and to amend the Provisions for the Payment of Special Constables, (so far as relates to Railways.)

[31st August, 1848.]

WHEREAS it is expedient to alter and amend several Preamble. provisions of the acts relating to the constabulary force in Ireland: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

1. That it shall and may be lawful for the lord lieutenant or other chief governor or governors of Ireland to fix and appoint such annual salary as may from time to time to him or them seem proper to be paid to each constable appointed or to be appointed under any of the acts now in force relating to the constabulary force in Ireland, not exceeding thirty-eight pounds for each mounted constable, and thirty-six pounds for each dismounted constable, and to direct that such annual salary shall commence on and from the first day of April in this present year.

4. *And whereas it is expedient to fix and determine the sum to be charged upon each county, or any part or district thereof, or any county of a city or county of a town in Ireland, in all cases where, by the laws now in force, one moiety of the costs and expenses of any constabulary force is chargeable thereupon respectively, and also the sum to be charged upon any borough for which a constabulary force shall be appointed in compliance with a memorial from the town council of such borough, in pursuance of an act of the third and fourth years of the reign of her present majesty, intituled "An Act for the Regulation of Municipal Corporations in Ireland;"* be it enacted, that from and after the thirty-first day of March, one thousand eight hundred and forty-eight in all such cases as aforesaid there shall be chargeable to each such county, county of a city, county of a town, or borough, per annum, for each sub-inspector one moiety of the sum of one hundred and sixty pounds, for each

Power to lord lieutenant, &c. to fix salaries of constables.

Rate of charge on counties and boroughs for constabulary forces appointed on application of town council of borough, 3 & 4 Vict. c. 103.

Repealed by 29 & 30 Vict. c. 103, s. 12.]

head constable one moiety of the sum of seventy pounds, and for each constable or sub-constable one moiety of the sum of thirty-five pounds two shillings and sixpence. and so in proportion for every fractional part of a year.

Proportion of sub-inspectors and head constables to additional force appointed on certificate of magistrates, or application from town council of a borough.

5. And be it enacted, that in all cases where an additional constabulary force shall have been certified by the magistrates of any county at large, at any general or special sessions, as now by law provided to be necessary for the due execution of the law within such county, and shall be appointed in conformity with such certificate, and also in all cases where an additional constabulary force shall be appointed for any borough in pursuance of the provisions of the said act of the third and fourth years of the reign of her present majesty, it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland to appoint one sub-inspector for every fifty constables and sub-constables, and one head constable for every twenty-five constables and sub-constables, who may have been so appointed; and the expense of such sub-inspectors and head constables shall be chargeable upon such county or borough respectively, and be repaid by grand jury presentment, or from the borough fund, in the same manner as the expense of the constables and sub-constables who may have been so appointed.

Where constabulary shall be required under 8 & 9 Vict. c. 46, to keep the peace near railway works, company, &c. requiring the same to pay the expense.

7. And whereas by an act of the eighth and ninth years of her present majesty's reign, intituled "An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland," provision is made for the appointment and payment of additional head and other constables for keeping the peace in certain cases in the neighbourhood of railway works or other public works in Ireland; be it enacted, that whenever such additional head or other constables shall have been or shall be appointed and employed for the purposes and under the provisions of the said last-recited act, the company or other parties carrying on such railway or other public works shall be chargeable for the expense of such head and other constables as in the said act provided, but according to the proportion of head and other constables herein-before provided, and also according to the scale of charge herein-before provided for head and other constables, save that such company or parties shall be chargeable for the whole and not for the moiety only of such respective rates of charge.

See 29 & 30 Vict. c. 103, s. 13.

13 VICT. cap. 21.

An Act for shortening the Language used in Acts of Parliament. [10th June, 1850.]

1. Be it declared and enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That every act to be passed after the commencement of this act may be altered, amended, or repealed in the same session of Parliament, any law or usage to the contrary notwithstanding.

2. Be it enacted, That all acts shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments, without any introductory words.

3. Be it enacted, That in any act, when any former act is referred to, it shall be sufficient, if such act was made before the seventh year of Henry the Seventh, to cite the year of the King's reign in which it was made, and where there are more statutes than one in the same year the statute, and where there are more chapters than one the chapter; and if such act referred to was made after the fourth year of Henry the Seventh, to cite the year of the reign, and where there are more statutes or sessions than one in the same year the statute or the session (as the case may require), and where there are more chapters or sections than one the chapter or section or chapter and section (as the case may require), without reciting the title of such act, or the provision of such section, so referred to; and the reference in all cases shall be made according to the copies of statutes printed by the Queen's printer, or to the copies thereof contained in the Reports of the Commissioners of Public Records: provided that where it is only intended to amend or repeal any portion only of such section it shall be necessary still either to recite such portion or to set forth the matter or thing intended to be amended or repealed.

4. Be it enacted, That in all acts words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and "county" shall be held

to mean also county of a town or of a city, unless such extended meaning is expressly excluded by words; and the word "land" shall include messuages, tenements, and hereditaments, houses and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit" shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing.

Repealed acts not to be revived. 5. Be it enacted, That where any act repealing in whole or in part any former act is itself repealed, such last repeal shall not revive the act or provisions before repealed, unless words be added reviving such act or provisions.

Repealed provisions how long to remain in force. 6. Be it enacted, That wherever any act shall be made repealing in whole or in part any former act, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made act.

Acts to be deemed public acts. 7. Be it enacted, That every act made after the commencement of this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such act.

Commencement of act. 8. Be it declared and enacted, That this act shall commence and take effect from and immediately after the commencement of the next session of Parliament.

13 & 14 VICT. cap. 33 [Local].

An Act for regulating legal Proceedings by or against the Committee of Railway Companies associated under the Railway Clearing System, and for other Purposes. [25th June, 1850.]

Preamble. WHEREAS for some time past arrangements have subsisted between several railway companies for the transmission without interruption of the through traffic in passengers, animals, minerals, and goods passing over different lines of railway, for the purpose of affording, in respect to such passengers, animals, minerals, and goods, the same or the like facilities as if such lines had belonged to one com-

pany, which arrangements are commonly known as and in this act are designated as "the clearing system," and which arrangements are conducted under the superintendence of a committee appointed by the boards of directors of such several railway companies, which committee is in this act designated "the committee," and the business of such committee has heretofore been and is now carried on at a building appropriated for the purpose in Seymour-street, adjoining the Euston Station of the London and North-western Railway Company: And whereas the clearing system has been productive of great convenience to the public, and of a considerable saving of expense in the transmission of passengers, animals, minerals, and goods over the lines of the several railway companies parties to such association; but considerable difficulty has been experienced in carrying into effect the objects of the association, in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings: And whereas George Carr Glyn Esquire is the present chairman, and Kenneth Morison is the present secretary of the committee: And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the several companies which at the time of the passing of this act are parties to the clearing system, and every other company which shall in manner hereafter mentioned become party to the same, shall be subject to the provisions of this act.

2. And be it enacted, That if any company which may not be a party to the clearing system shall, by writing sealed with the common seal of such company, request the committee to admit such company to be a party to the clearing system, and the committee shall assent to such request, such company shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing system.

3. And be it enacted, That if any company shall, by writing sealed with the common seal of such company, give notice to the committee of the desire of such company to cease to be a party to the clearing system, such company shall, at the expiration of one calendar month from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing system.

Committee
may give
company
notice to
retire.

4. And be it enacted, That if not less than two thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary, or by two members of the committee, give notice to any company that such company shall cease to be a party to the clearing system at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company shall at the time so named cease to be a party to the clearing system.

Appoint-
ment of the
committee.

5. And be it enacted, That each company party to the clearing system shall at all times be entitled to be represented on the committee by one delegate appointed by the board of Directors of such company from time to time, such appointment to be certified in writing by the secretary or any two directors of such company: Provided always, that, notwithstanding any company may happen to be unrepresented by a delegate at any meeting, the acts of the committee shall be valid.

Meetings
of the com-
mittee, quo-
rum, &c.

6. And be it enacted, That the committee shall meet at one of the clock in the afternoon of the second Wednesday in the months of March, June, September, and December in every year, or so soon thereafter as a quorum shall be assembled, and at any other times whereof the secretary shall, at the written request of the chairman for the time being, or any two members of the committee, give at least ten days notice in writing to every company party to the clearing system, or the secretary of every such company; and every such meeting may be adjourned from time to time and from place to place as the committee shall think proper; and meetings and adjourned meetings of the committee shall be held at the said building in Seymour-street, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least ten members; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote, in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least six days before the day of such meeting, be given to every company party to the clearing system, or the secretary of every such company.

Appoint-
ment of the
chairman.

7. And be it enacted, That until the first meeting of the committee which shall be held after the passing of this act the said George Carr Glyn, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which

shall be held after the passing of this act, and in the month of March in each succeeding year, the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die, or resign, or be removed, the committee shall have power, as soon as may be, to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at a general meeting in the month of March in any year shall continue in office so long only as the person in whose place he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies parties to the clearing system; but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

8. And be it enacted, That if at any meeting of the committee the chairman shall not be present the Temporary chairman. committee present shall choose one of their members to be chairman of such meeting.

9. And be it enacted, That the said Kenneth Morison shall be the secretary to the committee until he die, or resign, or be removed; and that the committee shall have the power to remove him and all future secretaries; and that in the event of the resignation, or death, or such removal as aforesaid of any secretary, the committee shall appoint a secretary to the committee. secretary.

10. And be it enacted, That the committee may from time to time appoint a treasurer, and remove such treasurer from his appointment, and prescribe and alter the duties of the office of treasurer, and take from the treasurer such security as they shall think fit, which security may be taken in the name or names of such person or persons as the committee approve of. Appoint-ment of treasurer.

11. And be it enacted, That any money which shall be received by the committee shall be held by the committee as trustees for the company or companies to whom the committee shall decide such money to be payable; but no member of the said committee shall be answerable for any such money as may be lost or withheld by reason of the misconduct, default, or insolvency of the treasurer, or of any banker or agent in whose hands the same may be, or by reason of any cause other than the personal misconduct of such member. Monies received by the committee.

Accounts to be settled, and balance ascertained and declared by the committee. 12. And be it enacted, That the accounts of the clearing system, and the balances due to and from the several companies parties thereto, shall be settled and adjusted by the secretary of the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing system by the companies parties thereto; and in case of any difference respecting such accounts the decision of the committee, to the effect that any balance or sum is payable by any company then or theretofore party to the clearing system, shall be final and conclusive, and such sum or balance shall be a debt due to the said committee.

Expenses to be paid out of the funds of the clearing system. 13. And be it enacted, That the committee shall, out of the funds of the clearing system, pay all the expenses of the clearing system, and all costs, charges, damages, and expenses which the members of the committee, or any or either of them, shall as such members or member, or which the secretary as nominal plaintiff or defendant, or other party, on behalf of the committee, bear, sustain, or be put to, and that the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing system, and by the companies parties to the clearing system, of, from, and against all action and actions, suit and suits, proceeding and proceedings, of any sort, costs, charges, damages, and expenses, to which they or any or either of them may in any way be subjected, as members or member of the committee, by reason of anything which they or he may *bonâ fide* do or omit to do, whether such deed or omission be within their powers or not.

Committee may sue for balances or sums due. 14. And be it enacted, That the committee may, by action of debt in the name of their secretary, recover from any company any balance or sum which such committee shall decide to be payable by such company, whether to any other company or on account of the clearing system, and whether such company be still at the time of such decision or has then ceased to be a party to the clearing system, and whether such sum or balance shall or shall not have been previously ascertained by the secretary to be payable.

Form of action. 15. And be it enacted, That the declaration for the recovery of such sum or balance may be in the form or to the effect of the form given in the schedule (A.) to this act annexed, and that the directions contained in the said schedule for the use of the same shall be taken as part of this act.

Evidence. 16. And be it enacted, That if the defendants in such action shall plead that they never were indebted, then, on proof, that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time

a party to the clearing system, and in the latter case upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained whilst the defendants were parties to the clearing system, the plaintiff shall be entitled to a verdict on that plea.

17. And be it enacted, That the defendants in such **Plea.** action may plead any matter showing that they have since the time of the decision discharged the sum or balance so decided to be payable, and shall not plead any plea with a plea denying the plaintiff to be secretary.

18. And be it enacted, That the committee shall cause **Entries in books.** notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "Chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry purporting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed, till the contrary be proved.

19. And be it enacted, That on the trial of any such **Books to be** action, after it is proved to the satisfaction of the court or judge trying the cause that such company is or had once **evidence,** been such a party, the books kept by the committee shall **and com-** be *prima facie* evidence of the truth of the matters therein **mittee and** stated and contained: and the secretary, although the **secretary** nominal plaintiff, and the members of the committee, shall be competent witnesses, either for the plaintiff or for the **witnesses.** defendants.

20. And be it enacted, That the committee may in all **Committee** cases sue and be sued in the name of the secretary to the **may sue or** committee; and that in all proceedings at law and in **be sued in** equity, and in bankruptcy, or of any other sort, whether **the name** civil or criminal, the name of the secretary may be used **of their** instead of the names of the members of the committee; and **secretary.** **proofs,** in cases of bankruptcy, insolvency, or in winding-up **affairs,** may be made by the secretary for the committee.

21. And be it enacted, That in any indictment or **In criminal** information for any felony or misdemeanor wherein it **proceed-** shall be necessary to state the ownership of any property **ings pro-**

perty of
committee
to be
deemed the
property of
secretary.

whatsoever, whether real or personal, and the same shall either belong to the committee or be in their custody, or in the custody or possession of any officer, clerk, or servant of the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing system, or shall be used or intended to be used for the purposes of the clearing system, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal
proceed-
ings to be
prosecuted
in name of
secretary.

22. And be it enacted, That in any indictment for embezzlement, wherein it shall be necessary to state the party charged with the embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

Service of
notices.

23. And be it enacted, That every notice or requisition on the business of the clearing system, or given pursuant to this act, shall be sufficient if it be in writing signed by the secretary of the committee, or secretary or other officer of the company giving the same, and if it be sent by the general post addressed to the secretary of the company for whom the same is intended, in case such notice or requisition be intended for any company, or to the secretary at the principal office of the clearing system, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters, intended to be forwarded by the general post, shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid, addressed to him at the principal office of the company whom he represents.

Mode in
which the
companies
and com-
mittee are
to be de-
scribed in
legal pro-
ceedings.

24. And be it enacted, That in all pleadings or proceedings, civil or criminal, when it shall be required to mention all the companies parties to the clearing system, or the committee, it shall be sufficient to mention the companies by the description of "The Companies Parties to the Clearing System mentioned in the Railway Clearing Act, 1850," and to describe the committee by the description of "The Clearing Committee mentioned in the Railway Clearing Act, 1850," without stating the names of the individual companies and members.

25. And be it enacted, That in all cases where the name of the secretary to the committee shall be used under the authority of this act, it shall be sufficient to name and describe him, and to state the authority for using his name, as in the form of declaration in schedule (A.)

Description of these secretaries in legal proceedings.

26. And be it enacted, That upon the death or removal of any secretary no action or suit or other proceeding pending in his name, as plaintiff or defendant or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be thereafter used: and in an action at law such name shall, whether it be before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed; and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

Actions, &c. not to abate on death or removal of secretary.

27. And be it enacted, That all the costs, charges, and expenses of obtaining and passing this act or incident thereto shall be paid by the said committee out of the first monies which shall come to their hands after the passing of this act.

Expenses of act.

28. And be it enacted, That this act may be called "The Railway Clearing Act, 1850," and shall be deemed to be a public act, and as such shall be judicially noticed.

Title of act.

SCHEDULE A.

to wit. } *A.B.*, Secretary to the Clearing Committee Schedule.
and now named by virtue of the Railway Clearing Act, 1850, by *C.D.* his attorney, complains of *X.Y.*, who have been summoned to answer the said *A.B.* in an action of debt, for that the Clearing Committee have decided that the sum of 100*l.* is payable by the defendants, as parties to the clearing system, by means whereof an action has accrued to the said committee to demand in the name of their secretary the said sum of 100*l.*, yet the defendants have not paid the same to the damage of the said committee of 10*l.*, and thereupon the plaintiff, by virtue of the said act, brings suit.

Directions for using the above Form.

Substitute for A.B. the Name of the Secretary, and for C.D. the Name of his Attorney, and for X.Y. the Name of the Company Defendant, and for the sums such sums as the case may require, and add the venue. Several counts may be inserted on the above model where several sums are sought to be recovered.



COURT OF CHANCERY (LANCASTER), 1850.

13 & 14 Vict. cap. 43. An Act to amend the Practice and Proceedings of the Court of Chancery of the County Palatine of Lancaster, (so far as it amends the Lands Clauses Act.)
[29th July, 1850.]

WHEREAS the court of chancery of the county palatine of Lancaster is an ancient court, and has been found greatly beneficial to the inhabitants of the said county palatine; and it is expedient, in order to extend the advantages of the said court, that certain alterations and improvements should be effected in the jurisdiction, practice, and proceedings thereof: And whereas the Queen's most excellent Majesty has been graciously pleased to sanction such alterations and improvements, notwithstanding that the same may affect her prerogatives and rights as duchess of Lancaster, or may create a charge upon the revenues of the said duchy: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same: Preamble.

12. And be it enacted, that all monies payable in respect of lands situate within the said county palatine, and which are authorized to be paid into or deposited in the bank of England to the account of the accountant general of the high court of chancery, under and by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act passed or to be passed incorporating the provisions of the said last-mentioned act, or otherwise authorizing the taking or using of lands situate in the said county palatine, and also that all monies or securities held by any party who might be sued in the court of chancery of the said county palatine in respect thereof, and which under and by virtue of an act made and passed in the parliament held in the tenth and eleventh years of the reign of her present majesty, intituled "An Act for better securing Trust Funds, and for the Relief of Trustees," might be in like manner paid or transferred into or deposited in the bank of England, to the account of the said accountant general, may, from and after the passing of this act, be in like manner paid or transferred into or deposited in the bank

Money paid into court under 8 & 9 Vict. c. 18, for lands within the county palatine, and under 10 & 11 Vict. c. 96, may be paid into the bank of England, to the joint account of the clerk and registrar.

Amended by 17 & 18 Vict. c. 82, s. 18.

13 & 14 VICT.
CAP. 43.

of England, to the joint account of the clerk of the council of the duchy of Lancaster and of the registrar and comptroller of the said county palatine court in the matter in respect whereof such payment, transfer, or deposit shall be made, and the receipt of one of the cashiers of the said bank shall be a full discharge to the person paying or transferring or depositing the same; and such monies and securities, and all costs of application in respect thereof, shall be dealt with by the said court of chancery of the county palatine in the same manner as the same might be dealt with by the high court of chancery or by the lord high chancellor, or any of the judges of the said high court, if such monies or securities had been paid or transferred into or deposited in the bank of England to the credit of the accountant general of that court; and the lands in respect of which such payment, transfer, or deposit shall be made may be dealt with in the same manner as if it had been made in manner prescribed by "The Lands Clauses Consolidation Act:" Provided always, that no monies shall be so paid or deposited under or by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act as aforesaid, in case the party who would have been entitled to the rents and profits of the lands in respect of which such monies shall be payable, or his or her guardian or committee in case of infancy or lunacy, shall at any time before such payment or deposit serve or cause to be served a notice in writing at the office of the company taking the lands, requesting them not to make the payment or deposit.

13 & 14 Vict. cap. 51. An Act for the Transfer of the Equitable Jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland (so far as it amends the Lands Clauses Act.)

[29th July, 1850.]

WHEREAS it is expedient to transfer to the court of chancery in Ireland the jurisdiction of the court of exchequer as a court of equity: Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same:

7. Provided always, and be it enacted, That no payment or transfer of any sum or sums of money to be at any time made out of any of the cash or funds so to be transferred as aforesaid, or out of any cash or funds to be at any time brought into the said court of chancery, or arise or be produced in said court in or by any suit or matter transferred to said court by force of this act as aforesaid, or to be at any time brought into said court of chancery under the provisions of "The Lands Clauses Consolidation Act, 1845," shall be subject or liable to the payment of poundage to the usher of the said court of chancery, any law or statute to the contrary notwithstanding.

Funds transferred to chancery not to be subject to usher's poundage.

8. And be it enacted, That in every case in which, by virtue of any act or acts of parliament, or otherwise, any sum or sums of money would, on or after the said first day of August one thousand eight hundred and fifty, be payable by any person or persons, or body politic or corporate, into the bank of Ireland, in the name or with the privity of the accountant general of the court of exchequer, and which, when paid in accordingly, would be subject to the order of the said court of exchequer sitting as a court of equity, the same sum and sums shall be payable and paid into the bank of Ireland in the name and with the privity of the accountant general of the court of chancery, to be placed to his account to the like credit as the same would have been payable if this act had not passed, but subject to the order of the said court of chancery; and in every case in which any money, funds, annuities or securities, or other property, would, on or after the said first day of

Money directed by any act, &c. to be paid into the bank to the credit of accountant general of the court of exchequer to become payable to the credit of accountant general of court of chancery.

Stocks, &c. transferable into the

18 & 14 VICT.
CAP. 51.

name of the
accountant
general of
the court of
exchequer to
become
transferable
into the
name of the
accountant
general of
court of
chancery.

Amended by
18 & 19 VICT.
c. 50.

August, one thousand eight hundred and fifty, be payable or transferable into the name of or become vested in the accountant general of the said court of exchequer, and which, when paid or transferred accordingly, would be subject to the order of the same court sitting as a court of equity, the same money, funds, annuities, securities, and other property shall be paid, transferable, and transferred into the name of or vested in the accountant general of the said court of chancery, in trust to attend the order of the said court of chancery, and the same shall be applicable to the same purposes as the same would have been applicable if this act had not passed, except where otherwise directed by this act; and that all money, funds, annuities, securities, and property which shall be so paid and transferred into the name of the said accountant general of the court of chancery, and which, before the passing of this act, or in case this act had not passed, were paid or transferred, or would have been payable or transferable, to the accountant general of the court of Exchequer, by virtue of any act or acts already passed or hereafter to be passed, or other authority whatsoever, shall be held subject to such or the like orders and directions of the said court of chancery, and subject to such powers and provisions, as the same would have been subject to in case the same had been originally directed or authorized to have been paid and transferred into the name of the accountant general of the said court of chancery, and had been made originally subject to the orders and directions of the last-mentioned court; and the orders and directions of the said court of chancery relating thereto shall have the same force and effect as any like orders and directions of the court of exchequer relating thereto would have had if this act had not passed.

13 & 14 VICT. cap. 83.

[See 30 & 31
Vict., c. 127;
32 & 33 Vict.,
c. 114.]

An Act to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain Cases. [14th August, 1850.]

Preamble. WHEREAS divers Joint Stock Companies have been incorporated by Act of Parliament for making railways, and it has been found that such railways, or certain parts thereof, cannot be made or carried on with advantage either to the promoters thereof or to the public, and it is expedient, therefore, that facilities should be given for the abandonment of such railways or parts of railways, and for the dissolution of such companies, or some of them, and winding up the concerns thereof:

Application to Board of Trade to be allowed to abandon undertaking. 1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any company authorized by Act of Parliament heretofore passed to make a railway desire that the making and carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company, represented in manner hereinafter mentioned at a general meeting of shareholders to be convened in manner hereinafter mentioned, make application in writing to the *commissioners of railways*, setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made.

"Board of Trade," see 14 & 15 Vict., c. 64, s. 1; 31 & 32 Vict., c. 18, s. 13

Directors may call meeting. 2. And be it enacted, That it shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the *commissioners of railways*, and so from time to time as they shall see fit.

"Board of Trade."

Shareholders may require directors to call meeting. 3. And be it enacted, That it shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the com-

pany or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid; and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition: Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days' notice shall be given by them by advertisement as hereinafter provided: Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

4. And be it enacted, That after any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the moneys of the company for the purposes of the railway proposed to be abandoned, except in discharge of *bonâ fide* debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made.

5. And be it enacted, That the calling of any such meeting shall be by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company, and where such meeting is called by the directors of the company a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular, for the purpose of determining whether

After receipt of requisition, directors not to make any payments, &c.

Mode of calling meeting, and signifying the consent of the shareholders to the application.

application shall be made to the commissioners of railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person or by letter addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively.

The number of the shareholders assenting or dissenting to be ascertained by scrutineers, and reported to the chairman.

6. And be it enacted, That at the meeting so to be called as aforesaid the scrutineers to be appointed as hereinafter mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three-fifths of the whole of such shares represented in manner aforesaid at the meeting consent to such application: Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or if such meeting be held pursuant to a requisition of shareholders as hereinbefore provided, then three months prior to the day on which such requisition was presented to the directors.

7. And be it enacted, That the chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or if neither such chairman nor deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof. Chairman of the meeting.

8. And be it enacted, That at every such meeting the shareholders present thereat shall elect three shareholders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects. Meeting to elect scrutineers.

9. And be it enacted, That for the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, on the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting. Adjournment of meeting on application of scrutineers.

10. And be it enacted, That a certificate under the hand of the chairman of the meeting, stating that such meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall within one week after the day of holding such meeting be deposited in the office of the said commissioners of railways. Certificate of the chairman to be evidence.

11. Provided always, and be it enacted, That if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners to authorize the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application would have been given, it shall be lawful for any such shareholders not being less in number than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the Shareholders desiring abandonment, and complaining that the sense of the company has not been fairly ascertained may apply to the Commissioners.

shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called, and if it appear to the said commissioners (after hearing the parties complained of, if they desire to be heard) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners, and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this act shall apply to any further meeting so directed to be called in like manner as to any original meeting hereinbefore authorized or required to be called.

If meeting determine that application shall be made, directors not to proceed meanwhile.

12. And be it enacted, That if at any such meeting any railway company shall determine, as hereinbefore mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment, that if such meeting had been duly called and the sense thereof duly taken the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the commissioners of railways with respect to such application be made, and then only in accordance with such decision.

Commissioners of railways to direct advertisements of application.

13. And be it enacted, That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin Gazette, according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such rail-

way is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners.

14. And be it enacted, That, for the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and conditions on which the same may be authorized by them, it shall be lawful for the commissioners of railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers, or documents in the possession or control of such company, and also, if they see fit so to do, to send, at the expense of such railway company, or at the expense of any person who applies to them for that purpose, an officer to be appointed by them to inspect the railway or proposed railway or work so proposed to be abandoned, and to collect evidence on the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect forfeit to her Majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued.

Commissioners to have power to inspect the company's books and other documents, and to send an officer for local inspection.

15. And be it enacted, That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two

Commissioners may by warrant authorize the abandonment of railway.

or more of the said commissioners, authorize the abandonment of the railway or portion of railway described in such warrant.

In considering objections of shareholders to partial abandonment, Commissioners to have regard to local circumstances.

Power to reduce or cancel the shares of the objectors in certain cases.

16. Provided always, and be it enacted, That in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and conditions on which the said commissioners may think fit to authorize any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting with reference to the portion of railway proposed to be abandoned; and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision hereinafter contained) they may give for reducing the capital of the company authorized to construct such railway, to provide, at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the moneys that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners having regard to all the circumstances of the case shall think fit to determine, to be repaid to such shareholders.

Abandonment of railway to be advertised, and demands on the company for compensation to be sent in.

17. And be it enacted, That within one month after the day on which any such warrant as aforesaid is granted by the said commissioners the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin Gazette, according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every

such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorized by such warrant, to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant.

See 32 & 33
Vict. c. 114,
s. 9.

18. And be it enacted, That, upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner hereinbefore required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all courts of justice or elsewhere as evidence that such notice was duly published as aforesaid.

Commissioners to certify publication of notice of warrant.

19. And be it enacted, That after the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions hereinafter contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorized to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorized to be abandoned which by reason of such abandonment cannot be performed: Provided always, that nothing in this act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of the lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this act, notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company.

After the granting of warrant the company to be released from liability to make the railway.

20. Provided always, and be it enacted, That in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the company named therein for purchasing any lands which such company were by the acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorized

Compensation to be made where contracts have been entered into or notice given.

to be abandoned, and from which contract such company would be relieved under the provisions hereinbefore contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorized to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as hereinafter mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties by reason of such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Compensation to adjoining landowners in lieu of accommodation works.

21. And be it enacted, That where any railway or part of a railway so authorized to be abandoned shall have been then made or commenced, such company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorized to be abandoned, compensation, to be determined by arbitration as hereinafter mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works, for the accommodation of lands adjoining the railway, as such company would have been required to make if such railway had not been allowed to be abandoned.

Company to make compensation, in lieu of keeping bridges, &c. in repair, except where the road is restored to its former state.

22. And be it enacted, That where the line of any railway so authorized to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the commissioners of railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined

by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.

23. And be it enacted, That every sum so to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate shall order.

Compensation to trustees and overseers of public roads, how to be applied.

24. And be it enacted, That every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such bridge or tunnel is situate, in case of any difficulty arising, shall direct.

Application of monies paid.

25. And be it enacted, That the amount of the compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845, or the Railways Clauses Consolidation Act, Scotland, 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts with respect to the settlement of disputes by arbitration shall be deemed to be incorporated with this act: Provided always that no such railway company shall be liable to make any compensation in respect of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the Gazette of the notice of the warrant for such abandonment as hereinbefore provided.

Amount of compensation to be settled by arbitration. Claims for compensation to be made within six months after publication of warrant.

26. Provided also, and be it enacted, That the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and

Company still liable for damage occasioned by entry on lands.

taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, contained.

Lands purchased by the railway company to be sold within a limited time. 27. And be it enacted, That all the lands acquired by such company for the purposes of the railway or part of the railway so authorized to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorizing the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands; and for that purpose all the clauses of the said last-mentioned acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this act: Provided always, that the offer to be made by the railway company pursuant to the said acts to sell such lands to the person entitled to the lands from which the same were severed shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

Where part of a railway is authorized to be abandoned, the Commissioners may require the capital to be reduced. 28. And be it enacted, That when the said commissioners of railways, by any such warrant as aforesaid, authorize the abandonment of a part only of the railway of any railway company, they may, if they think fit, require that the capital authorized to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorized to be raised than the cost of the part of the railway so authorized to be abandoned would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorized to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant; and in every such case the capital of such company, and their power of borrowing money, shall be reduced and limited in conformity with the directions for that purpose contained in such warrant; and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect

of the original capital of such company if this act had not been passed: Provided always, that nothing herein contained shall authorise the said company to reduce or interfere with any amount of capital paid up or called for before the eleventh day of February one thousand eight hundred and fifty, and entitled to any preferential or guaranteed dividend or interest.

29. And be it enacted, That after the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company the powers of such company for the construction, maintenance, and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs, and they shall accordingly, subject to the provisions herein contained with respect to the sale of lands acquired by such company for the purposes of their railway, proceed with all convenient speed to collect and to convert into money all their property and effects, and shall in the first place pay and satisfy all their debts and liabilities, and after full payment and satisfaction thereof shall distribute the surplus funds among the shareholders of the company in proportion to their shares and interests therein, and for the purposes aforesaid all the powers of such company shall continue in full force and effect; and when and so soon as the same shall have been fully accomplished such company shall be dissolved, and cease to exist.

After warrant for abandonment of whole railway the powers of company to cease, except for winding up. [Repealed by 32 & 33 Vict. c. 114, s. 10.]

30. And be it enacted, That, notwithstanding the provision in the Joint Stock Companies Winding-up Amendment Act, 1849, excepting railway companies incorporated by Act of Parliament from the application of the Joint Stock Companies Winding-up Act, 1848, the said two several acts shall nevertheless apply to any railway company incorporated by Act of Parliament in respect of which an order may have been made by the Court of Chancery for winding up the affairs of such company previous to the passing of the said Joint Stock Companies Winding-up Amendment Act, 1849, and the proceedings for winding-up the same shall proceed and be carried on under the said Joint Stock Companies Winding-up Act, 1848, and the said Joint Stock Companies Winding-up Amendment Act, 1849, or either of them.

Provisions of winding-up acts to apply to railway companies in certain cases. [Repealed by 32 & 33 Vict. c. 114, s. 10.]

31. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in England or Ireland, any shareholder of such company may present a petition under the Joint Stock Companies Winding-up Act, 1848, or any act for the amendment of such act, for the winding-up of the affairs of such company under the

When the whole railway abandoned, shareholders may petition

under the winding-up acts.

[Repealed by 32 & 33 Vict. c. 114, s. 10.]

said act, and for that purpose the railway company whose railway is so authorised to be abandoned shall, if the court shall think fit so to order (notwithstanding anything to the contrary thereof in the said Joint Stock Companies Winding-up Act, or in the Joint Stock Companies Winding-up Amendment Act, 1849), be deemed to be a company to which the said act applies.

Court of Session may sequester any company whose railway is abandoned. [Repealed by 32 & 33 Vict. c. 114, s. 10.]

32. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in Scotland, any shareholder of such company may present a petition to the court of session, praying the said court to sequester such company, and it shall thereupon be lawful for the said court to issue a deliverance awarding sequestration of such company, and to appoint a factor, who shall take possession of and recover the estate of such company, and realise and manage the same, for the purposes of this act, and for winding-up and distributing the same, with due regard to the rights and interests of the creditors and shareholders, and of all others concerned therein.

Court of Session to establish rules for adjustment of claims. [Repealed by 32 & 33 Vict. c. 114, s. 10.]

33. And be it enacted, That it shall be competent to the said court to establish, by acts of sederunt to be passed by them, all such rules and regulations as may be necessary in relation to the summary statement, discussion, and adjudication of all claims at the instance of creditors, shareholders, and other parties against such company, and by such rules and regulations to apply, as far as may be practicable and expedient, towards the purposes of this act, the provisions of an act passed in the session of Parliament holden in the second and third years of the reign of her present Majesty, intituled "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland;" and it shall be competent to the said court so also to establish all such other rules and regulations as may be necessary for carrying fully into effect the purposes of this act.

2 & 3 Vict. c. 41.

In case of petition for winding up, landowners to be deemed creditors in respect of compensation.

34. And be it enacted, That in the event of the affairs of any such company being wound up under any such petition, the compensation hereinbefore directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases hereinbefore mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from, and when ascertained in the manner provided by this act a debt due from, such company, and the party by whom such compensation is claimed shall be deemed a

"creditor," in England or Ireland, within the provisions of the said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the said recited act of the second and third years of the reign of her present Majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said act, they shall be sold in the manner and subject to the provisions contained in this act.

35. Provided always, and be it enacted, that this act, or any proceeding thereunder, shall not prejudice or affect *any action or suit or other proceeding at law or in equity commenced before the eleventh day of February one thousand eight hundred and fifty, or any action or suit brought in connection with and during the dependence of and involving the same matter with such action or suit, nor any action, suit, or other proceeding against a company which shall not have obtained a warrant authorizing the abandonment of the railway or part of a railway in respect of which such action, suit, or other proceeding shall be instituted, unless such company shall, within three days after notice for that purpose from the party suing them, give such party notice of their intention to apply for such warrant, and shall obtain the same, and serve notice thereof on such party within three calendar months thereafter, but all such actions and suits and other proceedings shall be proceeded with, and judgments recovered, and rules, orders, and decrees made therein shall be enforced, as if this act had not been passed, save only that the same, after notice given by the company of their intention to abandon as aforesaid, shall be suspended for three calendar months, if the warrant be refused, or be not obtained within that time.*

Act not to affect actions or suits commenced before 11th Feb. 1850. 21st May 1857. 30 & 31 Vict. c. 127, s. 31. [Repealed by 38 & 39 Vict. c. 60, s. 1.]

36. Provided always, and be it enacted, That nothing in this act contained shall extend or be construed to extend to authorize the abandonment by any company of any railway or portion of a railway, or other works, which such company has agreed under its corporate seal to make and construct, according to any agreement entered into either with any individual or with any other company, unless such individual or company shall consent in writing to such abandonment.

Certain railways not to be abandoned without consent.

37. And be it enacted, That in each case in which the said commissioners authorize the abandonment of the whole or a portion of a railway, they shall, within ten days after issuing their warrant for that purpose, if Parliament be then sitting, or if not, then as soon thereafter as Parliament meets, lay before both Houses of Parliament a copy of every such warrant, accompanied by such

Commissioners to report to Parliament.

report and observations as shall in the judgment of such commissioners set forth and explain the reasons for their award and warrant in every such case as aforesaid.

interpreta-
tion of
terms.

88. And be it enacted, That the following words and expressions in this act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number: words importing the masculine gender shall extend to females: the word "person" shall include body corporate: the word "lands" shall include messuages, tenements, and hereditaments: the word "railway" shall include all works, buildings, and undertakings authorized to be constructed or carried on in connexion with the railway or belonging thereto: the word "shares" shall include stock: the word "month" shall mean calendar month.

Short title.

39. And be it enacted, That in citing this act in other acts of Parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act, 1850."

Act may be
amended.
[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

40. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

Schedule referred to by the foregoing Act

(1.) Name of Railway.	(1.) Name of Share- holder.	(1.) No. and Amount of Shares or Stock held by him.	(2.) Whether as- senting or dissenting.

(1.) The secretary will insert these particulars.

(2.) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder.

14 & 15 VICT. cap. 64.

An Act to repeal the Act for constituting Commissioners of Railways. [7th August, 1851.]

WHEREAS an act was passed in the session holden in the ninth and tenth years of her Majesty (chapter one hundred and five), for constituting commissioners of railways: Preamble.
 And whereas it is expedient that the said act should be repealed, and provision be made for the exercise and performance of the powers and duties which since the passing of the said act have been vested in or imposed on the said commissioners: 9 & 10 Vict c. 105.
 Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. From and after the tenth of October one thousand eight hundred and fifty-one the said act shall be repealed, and all powers, rights, authorities, and duties vested in or exercised or performed by the commissioners of railways under any act passed since the passing of the said recited act, or which may be passed during the present session of Parliament, shall be transferred to and vested in and performed by the Lords of the committee of her Majesty's privy council for trade and foreign plantations as if they had been named in such acts instead of the said commissioners; and all proceedings pending before the said commissioners on the said tenth of October, or carried on under their authority, shall be continued and carried on by and before the Lords of the said committee, who shall have, exercise, and perform the same powers, rights, authorities, and duties in respect of all such proceedings as might have been exercised or performed by such commissioners in case this act had not been passed. Recited Act repealed, and powers, &c of commissioners transferred to Board of Trade.

2. It shall be lawful for the Lords of the said committee, with the approval of the commissioners of her Majesty's treasury, to continue, for the transaction of the business transferred to the Lords of the said committee under this act, all or any of the officers and servants appointed by the said commissioners of railways, and from time to time, with such approval, to remove such officers and servants, or any of them. Power to continue officers.

3. Where by any act relating to railways or to any railway the commissioners of railways or the Lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice, or to do any other act, the Lords of the said committee may, after the said tenth of October, signify such appointment, authority, determination, order, requisition, regulation, certificate, Appointments, orders, &c of the Board of Trade how to be signified.

notice, or other act by a written or printed document, signed by one of the joint secretaries of the Lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways; and every appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the Lords of the said committee; and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the Lords of the said committee.

RAILWAYS (IRELAND), 1851.

14 & 15 Vict. cap. 70. An Act to alter and amend certain provisions of the Lands Clauses Consolidation Act, 1845, so far as relates to Ireland. [7th August, 1851.]

WHEREAS, on account of circumstances connected with the tenure of land in Ireland, the provisions of the Lands Clauses Consolidation Act, 1845, are found to be unsuited to the existing condition of that country, and it is expedient that some provision should be made for ascertaining the purchase money or compensation to be paid by railway companies in Ireland for the lands required for their undertakings, and for determining differences with respect to the works to be made and maintained by such companies for the accommodation of the owners and occupiers of lands adjoining such railways: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

1. In citing this act in other Acts of Parliament, legal instruments, proceedings at law or in equity, and all other instruments and proceedings whatsoever, it shall be sufficient to use the expression "The Railways Act (Ireland), 1851."

2. This act shall apply to every railway in Ireland authorized to be made by any act passed in this session of Parliament, or which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such railway, and also to every railway or portion of a railway in Ireland by any act heretofore passed authorized to be made in relation to which the compulsory powers for taking lands are still in force, and this act shall be incorporated with and form part of the acts authorizing the said undertakings: Provided always, that this act shall not apply to the railways authorized to be made by "The Waterford and Limerick Railway Amendment Act, 1850," "The Dublin and Drogheda Railway Act, 1850," "The Dundalk and Enniskillen Railway Act, 1850," and "The Midland Great Western Railway of Ireland (Deviation and Amendment) Act, 1850," "The Waterford and Limerick Railway Deviation Act, 1851," and "The Killarney Junction Railway Act, 1851," "The Longford Line and Liffy Branch, 13 & 14 Vict.,

Preamble.
See also 23 & 24 Vict. c. 87, 27 & 28 Vict. c. 71, and 31 & 32 Vict. c. 70.

Act to apply to railways in Ireland, with certain exceptions.

14 & 15 Vict.
CAP. 70.

Certain
provisions
of 8 Vict. c.
18, not to
apply.

Company to
deliver maps,
schedules,
and esti-
mates at the
office of com-
missioners of
public
works, and
deposit
copies with
clerks of
the peace
and clerks of
sessions.

or to which the provisions of such acts respectively are applicable, and shall not in anywise interfere with or affect the provisions of such acts.

3. The clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement, except sections sixteen and seventeen of the said act, shall not be applicable or in force with respect to any railway or portion of a railway in Ireland to which this act applies.

4. When and so often as any company authorized to make a railway to which this act applies shall require to purchase or take any lands which they are by the special act authorized to purchase or take, the company shall cause to be made out, and to be signed by their engineer and secretary, maps or plans and schedules of the lands so required (and for the purchase of which lands, or of all the several interests in which lands, the company shall not have contracted), and also of the works which the company propose to make and maintain for the accommodation of lands adjoining the railway (and for compensation in lieu of which the company shall not have contracted), together with the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands respectively, so far as the same can be reasonably ascertained, with estimates of the gross annual value and the value in fee of such lands so required to be purchased or taken as aforesaid, and for the purchase of which, or of all the several interests in which, the company shall not have contracted, and the separate and distinct value of each such interest which the company shall not have contracted to purchase, so far as the same can be reasonably ascertained (taking into consideration damage by severance, and any other matters by the Lands Clauses Consolidation Act, 1845, required to be considered, if necessary); and every such map or plan shall be upon a scale of not less than one inch to every two hundred feet; and all lands, buildings, yards and court-yards, and lands within the curtilage of any building, and ground cultivated as a garden, shall be marked thereon with distinct numbers corresponding with the numbers marked upon the Parliamentary plans of the railway, and shall have put thereon a distinct valuation to each number, and all bridges, roads, and other works proposed to be made for the use and accommodation of the owners, lessees, and occupiers of the lands adjoining the railway shall also be marked on the said maps or plans; and the company shall deposit such maps or plans, schedules and estimates, at the office of the commissioners of public works in Ireland, and a copy of such maps or

plans, schedules and estimates, or so much thereof as relates to every county in or through which the railway is proposed to be made, with the clerk of the peace of each such county, and a copy of so much of the said maps or plans, schedules and estimates, as relates to each electoral division in which any such lands shall be situate, with the clerk of the poor law union in which every such electoral division is situate.

14 & 15 Vict.
CAP. 70.

5. After such deposit at the office of the said commissioners as aforesaid, it shall be lawful for the said commissioners, upon the application of the company, to appoint an arbitrator between the company and the persons interested in the lands to which such maps or plans, schedules and estimates relate, and such arbitrator shall, in relation to the lands required and the works to be made and maintained by the company, as herein mentioned, be the arbitrator under this act; and if any such arbitrator die, or refuse, decline, or become incapable to act, the said commissioners may appoint an arbitrator in his place who shall have the same powers and authorities as the arbitrator first appointed.

Commissioners to appoint an arbitrator.

6. The arbitrator may call for the production of any documents in the possession or power of the company, or of any party making any claim under the provisions of this act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this act, and may examine any such party and his witnesses, and the witnesses for the company, on oath, and administer the oaths necessary for that purpose.

Arbitrator may call for documents.

7. Before any arbitrator shall enter upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

Arbitrator to make and subscribe declaration.

"I, A.B., do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming this act]."

"A.B."

"Made and subscribed in the presence of"
And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

8. Upon the first appointment of an arbitrator as aforesaid, the said commissioners shall deliver to such arbitrator the maps or plans, schedules and estimates, deposited at their office as hereinbefore required; and the company shall forthwith after such appointment publish notice of such appointment, and of such deposits as herein-

Maps, &c. to be delivered to arbitrator.

Notice of

14 & 15 VICT.
CAP. 70.

appointment
of arbitrator,
&c. to be
published.

"Twenty-
one," see 23
& 24 Vict. c.
97, s. 1.

Arbitrator
to adjudicate
upon com-
pensation to
be paid for
lands and
upon accom-
modation
works.

before directed with such clerk of the peace and clerks of poor law unions as aforesaid, once in the Dublin Gazette, and once in each of three successive weeks in some one and the same newspaper circulated in the county in which the lands are situate, stating the times and places of such deposits, and requiring all persons claiming to have any right to or interest in the lands required for the purposes of the railway, and specified in such maps or plans, or to have compensation for any injury to any lands injuriously affected by the execution of the works of the company, or to have any works made by the company for the accommodation of lands adjoining the railway, to deliver to the arbitrator, on or before a day fixed by the arbitrator and named in such notice (and which day shall not be earlier than *thirty-one* days from the date of the insertion of the last of such newspaper notices), a short statement in writing of the nature of such claim; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the company shall publish notice of such appointment in the Dublin Gazette.

9. The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the value of the lands required for the purposes of the railway, and specified in such maps or plans, and the several interests in such lands, in respect of which no agreement shall have been come to between the company and the persons entitled thereto, and the purchase money to be paid for such lands, and the compensation to be paid for injury to any lands injuriously affected by the execution of the works of the company, and to inquire and determine what works should be made and maintained by the company for the accommodation of lands adjoining the railway; and the arbitrator shall, after due inquiry and examination, frame a draft award setting forth the price or compensation to be paid by the company in respect of the several interests in the lands so required and specified or injuriously affected, and the works to be made and maintained by the company for the accommodation of lands adjoining the railway; and where any inquiry relates not only to the value of the lands to be purchased, but also to compensation claimed for injury done or to be done to any lands held therewith, the arbitrator shall award separate and distinct sums to be paid for the purchase of such lands, or of any interest

therein to which the inquiry may relate, and for the damage (if any) to be sustained by reason of the severing of the lands taken from the other lands, or otherwise injuriously affecting such other lands by the exercise of the powers of the company; and such draft award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions shall be deposited as hereinbefore directed concerning the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the arbitrator shall cause notice of such award to be given to all persons entitled to payment or compensation under the same, or who shall have been heard before such arbitrator as claimants for compensation, and also shall cause notice to be published as hereinbefore directed concerning notice of the deposit of copies of the said maps or plans, schedules and estimates, or so much thereof as aforesaid, of the deposit of copies of such draft award, or of so much thereof as aforesaid, and shall in such notices appoint a time and place, or times and places, for holding a meeting or meetings to hear objections against such draft award (the first such meeting to be not earlier than *twenty-one* days after the last day of publication of the said notice), and shall hold such meeting or meetings accordingly, and thereat hear and determine any objections which may then and there be made to such draft award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the value of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such draft award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such draft award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed; and when the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the draft award, he shall make his award under his hand and seal accordingly; and every such award shall be binding and conclusive, subject to the provisions concerning traverse hereinafter contained, upon all persons whomsoever; and no such award shall be set aside for irregularity in matter of form; and every such award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed with respect to the said maps or plans, schedules and estimates,

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CAP 70.

"Fourteen."
see 23 & 24
VICT. c. 97, s.
1.

14 & 15 Vict.
CAP. 70.

and copies thereof, or of so much thereof as aforesaid; and the company shall thereupon publish notice, as heretofore directed concerning notice of the deposit of copies of such maps or plans, schedules and estimates, or of so much thereof as aforesaid, of the deposit of copies of such award, or of so much thereof as aforesaid, and requiring all persons claiming to have any right to or interest in the lands, the price or compensation to be paid in respect of which is ascertained by such award, to deliver to the company, on or before a day to be named in such notice (such day not being earlier than thirty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the company.

Separate awards may be made as to lands in several places.

10. Provided always, That the arbitrator may make several awards, so as to include in a separate award the lands in each electoral division, or such portion of the lands in relation to which he is arbitrator as, having reference to the deposits to be made under this act, the meetings to be holden, and the inquiries to be made in relation to such lands, and the convenience of the parties interested in the matter of the arbitration, he may think fit.

Clerks of the peace, &c. to take charge of documents.

11. Every clerk of the peace and clerk of any union is hereby required to retain the documents to be deposited with him under this act in his custody, and to permit all persons interested to inspect the same, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided by an act of the session holden in the seventh year of King William the Fourth and the first year of her Majesty, chapter eighty-three.

Expenses of arbitrator and commissioners to be borne by the company.

12. The salary or remuneration, travelling and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which shall be incurred by the said commissioners of public works in carrying the provisions of this act into execution, shall be paid by the company; and the amount of such costs, charges, and expenses shall from time to time be certified by the said commissioners, after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the company; and it shall be lawful for the said commissioners from time to time to require the company to deposit in the Bank of Ireland, to the credit of the said commissioners, any sum or sums of money, or to give such other security for the payment of any such costs, charges, and expenses as to the said commissioners shall seem fit; and every certificate of the said

commissioners, certifying the amount of such costs, charges, and expenses, shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the company to the crown, and shall be recoverable accordingly.

14 & 15 Vict.
CAP. 70.

13. It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the company: and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the company in respect of such claim before the commencement of the arbitration.

Costs of parties.

14. Within thirty days from the delivery of such statement and abstract as aforesaid to the company, the company shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person on demand, a certificate under the company's seal, stating the amount of the price or compensation to which he is entitled under the said award; and where more lands than are included in one number shall be claimed by the same person, such lands, or the interests therein, may be included in one certificate, if the company think fit, such certificates to be prepared by and at the costs of the company; and where any agreement has been entered into in respect to the value of the interest of any person in any lands, or his right to compensation, the company may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

Certificates of amount of compensation to be delivered by the company.

15. The company shall, on demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of monies specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns; and if the company wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the company in the Court of Queen's Bench in Ireland for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by

Amount mentioned in certificates to be paid to parties, on demand, &c.

14 & 15 VICT.
CAP. 70.

When
amount is
paid, com-
pany may
take posses-
sion.

Receipts
duly
stamped to
operate as a
conveyance.

Payment of
monies
where
parties
deemed not
entitled, or
are under
disability,
&c.

Where no
claim made

warrant of attorney from the company, authorized to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all monies payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the company entering on any such lands as aforesaid.

16. When and so soon as the company have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases hereinafter mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the company, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

17. In every case in which any monies are paid by any company under the provisions of this act, for such price or compensation as aforesaid, the party receiving such monies shall give to the company a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such monies are paid, so as such receipt shall have an *ad valorem* stamp of the same amount impressed thereon in respect of the purchase monies mentioned in such certificate (but exclusive of the amount of compensation for damage by severance or other injury) as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the company.

18. If it appear to the company from any such statement and abstract as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the company, then and in every such case the amount to be paid by the company in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation Act, 1845," "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

19. Where any person claiming any right or interest in any lands shall refuse to produce his title to the same, or

where the company have taken possession of any lands under the provisions of this act in respect of the price or compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the company taking possession, or if any party to whom any such certificate has been given or tendered refuse to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the company in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of Ireland, in the name and with the privy of the Accountant General of the Court of Chancery in Ireland, in manner provided by the last-mentioned clauses of "The Lands Clauses Consolidation Act, 1845," and the amount so paid into the said bank shall be accordingly dealt with as by the said act provided; and no monies paid into the bank under this act shall be liable to Usher's poundage.

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or parties
refuse to
accept sum
certified,
money to be
paid into the
bank.

20. Nothing herein contained shall prevent the company from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned, if they think fit, so as the same be obtained at the costs of the company.

Further
evidence of
title.

21. If from any reason whatever the company shall not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the company as aforesaid, then the right to have a certificate according to the provisions of this act may, at the costs and charges of the company, be enforced by any party or parties, by application to the High Court of Chancery in Ireland in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this act may be in like manner enforced against the company by such application as aforesaid.

Delivery of
certificate
may be en-
forced by
Court of
Chancery

22. *Provided always, That where the company are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained, it shall be lawful for the company, at any time after the arbitrator shall have framed his draft award, upon depositing in the Bank of Ireland, as herein directed, such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorized to be purchased or taken by the company, and mentioned in such draft award, to enter upon and use such lands for the purposes of the railway and works of the company; and the arbitrator shall, upon the request of the company, at*

After de-
posit of
draft award
company
may, upon
deposit of
such
amount as
arbitrator
may think
fit, enter
upon lands.

Repealed by
23 & 24 Vict.
c. 97, s. 2.

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any time after he shall have framed such draft award, certify under his hand the sum which in his opinion should be so deposited by the company in respect of any lands mentioned in such draft award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such draft award as the sum or sums to be paid by the company in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under this act, shall be had, and payments made, as if such entry and deposit had not been made; provided that the company shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the purchase and compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of this act, such purchase money or compensation is required to be paid into the said bank, then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any purchase or compensation money the certificate to be delivered by the company in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

Mode of
deposit.

Repealed by
23 & 24 Vict.
c. 97, s. 8.

23. The money to be deposited as aforesaid in respect of any lands shall be paid into the Bank of Ireland in the name and with the privity of the Accountant-General of the Court of Chancery in Ireland, to be placed to his account there to the credit of the company (describing the company by its proper name), in the matter of the Railways Act (Ireland), 1851, and of the lands in respect of which the same is paid, subject to the control and disposition of the said court; and upon such deposit the cashier of the said bank shall give to the company, or to the party paying in such money by their direction, a receipt for the same.

Deposit to
remain as a
security, and
to be applied
under the
direction of
the court.

24. The money so deposited as last aforesaid shall remain in the bank by way of security to the parties interested in the lands which shall so have been entered upon, for the payment of the money to become payable by the company in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the company, be ordered to be

invested in bank annuities or government securities, and accumulated; and upon such payment as aforesaid by the company it shall be lawful for the Court of Chancery in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the company, or, in default of such payment as aforesaid by the company, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

25. If at any time the company be unable, by reason of the closing of the office of the Accountant-General of the said Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank, to such credit as aforesaid (subject nevertheless to being dealt with as herein provided), such sum of money as the company shall by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-General's office, the solicitor for the company shall there bespeak the direction for the payment of such sum in to the name of the Accountant-General, and upon production of such direction at the bank of Ireland the money so previously paid in shall be placed to the credit of the said Accountant-General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

26. Where the party named in any certificate issued under the provisions hereinbefore contained of the amount of the price or compensation ascertained by any award under this act (or any party claiming under the party so named) shall be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies so paid into court as aforesaid shall be dissatisfied with the amount of the price or compensation in respect of which such monies shall be so paid into court, and where any party interested in land adjoining any railway shall be dissatisfied with any award under this act so far as respects any works for the accommodation of such lands thereby awarded to be made and maintained by the company, or which such party may claim to have so made and maintained, it shall be lawful

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Repealed by
23 & 24 Vict.
c. 97, s. 4.

Company may deposit money by way of security while the office of the accountant general is closed.

Parties dissatisfied with award, may enter a traverse at assizes.

[Amended by 31 & 33 Vict., c. 70.]

14 & 15 VICT.
CAP. 70.

for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate, or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case may be), upon giving ten days notice in writing previously to such assizes or term respectively to the secretary of the company, of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse shall be tried in like manner, and like proceedings shall be had, and subject to like provisions, as far as the same can be applied, as in the case of traverses entered for damages under the acts for consolidating and amending the laws relating to the presentment of public monies by grand juries in Ireland: Provided always, that the sum to be awarded or allowed as the costs, charges, and expenses of the trial of every such traverse for damages shall in no case exceed the sum of twenty pounds, and further that no party shall have any other remedy for the purpose of impeaching the amount of any price or compensation ascertained by any such award as aforesaid, or the sufficiency of the accommodation works awarded thereby, other than by means of such traverse as aforesaid, anything in any act to the contrary notwithstanding: Provided also, that the jury which shall try such traverse shall be sworn a true verdict to give, whether any and what damages will be sustained by the traverser, regard being had to the value of the lands of such traverser required, and to the injury to any lands of such traverser injuriously affected by the works of the company, or (as the case may be) as to what accommodation works ought to be made and maintained by the company for the accommodation of the lands of the traverser, or to the like effect respectively, as the case may be.

Verdict on
traverse to
have effect of
judgment.

27. The entry of the verdict of the jury in case of each traverse in the crown book shall be a final decision, and binding upon all parties interested, and shall have the effect of a judgment at law obtained in the Court of Queen's Bench in Ireland against the company, and may be enforced by like remedies against the company as in the case of a judgment at law, by all parties interested therein; and in each case where a certificate shall have been

delivered, such damages shall be taken and recovered in lieu of the monies expressed to be payable by the certificate, and which shall, on payment of the damages, and any costs payable by the company, be delivered up to the said company, and such receipt for such damages shall be given as is hereinbefore provided in cases of payment of monies on such certificates as aforesaid; and where such damages shall be given in respect of any land, the amount of the price or compensation in respect of which, as ascertained by an award under this act, shall have been paid into court, then if the amount of such damages shall be less than the amount paid into court, the company shall, on a summary application by petition, be entitled to receive the difference between the amount of such damages and the amount of the sum paid into court, but if the amount of such damages shall exceed the amount of the monies paid into court, then the difference between the amount paid in and the damages shall, at the costs of the company, be paid into court; and the payment of such difference into court, and the payment of any costs payable by the company in respect of such traverse, shall be a good discharge to the company on any such verdict in the nature of a judgment as aforesaid.

14 & 15 VICT
CAP. 70.

28. The provisions of this act shall extend to the purchase by the company of lands for extraordinary purposes.

Additional
lands.

29. All the provisions of "The Lands Clauses Consolidation Act, 1845," shall, subject to the provisions herein contained, extend to and be taken as part of this act, except so far as the same are inconsistent therewith.

8 VICT. c. 13
incorporated

30. In the construction of this act the words "the company" shall mean the company constituted by the special act.

Company.

31. This act shall extend to Ireland only.

Ireland.

32. *This act shall continue in force for five years next after the passing thereof, and thence to the end of the then next session of Parliament.*

Made perpetual by 22
& 24 VICT. c.
37, s. 8.

16 & 17 VICT. cap. 69.

An Act to make better Provision concerning the Entry and Service of Seamen, and otherwise to amend the Laws concerning Her Majesty's Navy (so far as relates to Railways).

[15th August, 1853.]

Railway companies to convey naval forces upon the same terms as military and police. [Repealed by 46 & 47 Vict. c. 34, s. 10.]

7 & 8 Vict. c. 85.

18. Whenever it shall be necessary to move any of the officers or men in Her Majesty's navy or belonging to any naval coast volunteers, or any other officers or men under the command or government of the Admiralty, every railway company shall, upon the production of a route or order for the conveyance of such officers or men, signed by any officer or person authorized by the lord high admiral or commissioners for executing the office of lord high admiral in that behalf, be bound to provide conveyance for such officers or men and their personal luggage, and also any public baggage, stores, arms, ammunition, and other necessities and things, by the railway of such company, at the usual hours of starting, in like manner and at the like fares and rates of charge, and upon the like conditions, as under the act of the session holden in the seventh and eighth years of Her Majesty, chapter eighty-five, or any other act applicable to such company, such company would be bound to provide such conveyance for the officers and men of Her Majesty's forces of the line, ordnance corps, marines, militia, and police force, and their personal luggage, and any public baggage, stores, arms, ammunition, and other necessities and things of the said forces.

17 & 18 VICT. cap. 31.

An Act for the better Regulation of the Traffic on Railways and Canals. [Applied by 31 & 32 Vict. c. 119, s. 16.] [10th July, 1854.]

WHEREAS it is expedient to make better provision for regulating the traffic on railways and canals: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In the construction of this act "the Board of Trade" shall mean the Lords of the committee of her Majesty's privy council for trade and foreign plantations: The word "traffic" shall include not only passengers, and their luggage, and goods, animals, and other things conveyed by any railway company or canal company, or railway and canal company, but also carriages, waggons, trucks, boats, and vehicles of every description adapted for running or passing on the railway or canal of any such company: The word "railway" shall include every station of or belonging to such railway used for the purposes of public traffic: and, the word "canal" shall include any navigation whereon tolls are levied by authority of Parliament, and also the wharves and landing places of and belonging to such canal or navigation, and used for the purposes of public traffic. The expression "railway company," "canal company," or "railway and canal company," shall include any person being the owner or lessee of or any contractor working any railway or canal or navigation constructed or carried on under the powers of any act of Parliament: A station, terminus, or wharf shall be deemed to be near another station, terminus, or wharf when the distance between such stations, termini, or wharves shall not exceed one mile, such stations not being situate within five miles from St. Paul's Church, in London.

2. Every railway company, canal company, and railway and canal company, shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles, and no such company shall make or give any undue or unreasonable

Interpretation of words.

Board of Trade.

Traffic.

Railway.

Canal.

Company.

Stations.

Railway companies to make arrangements for receiving and forwarding traffic with.

out unreasonable delay, and without partiality.

[Amended by 36 & 37 Vict., c. 48, s. 11.]

preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station, or wharf of the one near the terminus, station, or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways or canals by the other, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf.

Parties complaining that reasonable facilities for forwarding traffic, &c., are withheld, may apply by motion or summons to the superior courts. [Jurisdiction transferred to railway commissioners by 36 & 37 Vict., c. 48, s. 6.]

3. It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this act, to apply in a summary way, by motion or summons, in England, to her Majesty's Court of Common Pleas at Westminster, or in Ireland to any of her Majesty's Superior Courts in Dublin, or in Scotland to the Court of Session in Scotland, as the case may be, or to any judge of any such court; and, upon the certificate to her Majesty's Attorney General in England or Ireland, or her Majesty's Lord Advocate in Scotland, of the Board of Trade alleging any such violation or contravention of this act by any such companies or company, it shall also be lawful for the said Attorney General or Lord Advocate to apply in like manner to any such court or judge, and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint; and for that purpose, if such court or judge shall think fit, to direct and prosecute, in such mode and by such engineers, barristers, or other persons as they shall think proper, all such inquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint; and if it be made to appear to such court or judge on such hearing, or on the report of any such person, that anything has been done or omission made, in violation or contravention of this act, by such company or companies, it

shall be lawful for such court or judge to issue a writ of injunction or interdict, restraining such company or companies from further continuing such violation or contravention of this act, and enjoining obedience to the same; and in case of disobedience of any such writ of injunction or interdict it shall be lawful for such court or judge to order that a writ or writs of attachment, or any other process of such court incident or applicable to writs of injunction or interdict, shall issue against any one or more of the directors of any company, or against any owner, lessee, contractor, or other person failing to obey such writ of injunction or interdict; and such court or judge may also, if they or he shall think fit, make an order directing the payment by any one or more of such companies of such sum of money as such court or judge shall determine, not exceeding for each company the sum of two hundred pounds for every day, after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict; and such monies shall be payable as the court or judge may direct, either to the party complaining, or into court to abide the ultimate decision of the court, or to her Majesty, and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by decree or judgment in any Superior Court at Westminster or Dublin, in England or Ireland, and in Scotland by such diligence as is competent on an extracted decree of the Court of Session; and in any such proceeding as aforesaid, such court or judge may order and determine that all or any costs thereof or thereon incurred shall and may be paid by or to the one party or the other, as such court or judge shall think fit; and it shall be lawful for any such engineer, barrister, or other person, if directed so to do by such court or judge, to receive evidence on oath relating to the matter of any such inquiry, and to administer such oath.

4. It shall be lawful for the said Court of Common Pleas at Westminster, or any three of the judges thereof, of whom the Chief Justice shall be one, and it shall be lawful for the said courts in Dublin, or any nine of the Judges thereof, of whom the Lord Chancellor, the Master of the Rolls, the Lords Chief Justice of the Queen's Bench and Common Pleas, and the Lord Chief Baron of the Exchequer, shall be five, from time to time to make all such general rules and orders as to the forms of proceedings and process, and all other matters and things touching the practice and otherwise in carrying this act into execution before such courts and judges, as they

Writ of
injunction
may be
issued.

Penalty.

Costs.

Judges may
make such
regulations
as may be
necessary
for proceed-
ings under
this act.

may think fit, in England or in Ireland, and in Scotland it shall be lawful for the Court of Session to make such Acts of Sederunt for the like purpose as they shall think fit.

Court or judge may order a rehearing.

5. Upon the application of any party aggrieved by the order made upon any such motion or summons as aforesaid, it shall be lawful for the court or judge by whom such order was made, to direct, if they think fit so to do, such motion or application on summons to be reheard before such court or judge, and upon such rehearing to rescind or vary such order.

Mode of proceeding under this act.

6. No proceeding shall be taken for any violation or contravention of the above enactments, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies, or privileges of any person or company against any railway or canal or railway and canal company under the existing law.

Company liable for neglect or default in the carriage of animals or goods, notwithstanding notice to the contrary.

7. Every such company as aforesaid shall be liable for the loss of or for any injury done to any horses, cattle, or other animals, or to any articles, goods, or things, in the receiving, forwarding, or delivering thereof, occasioned by the neglect or default of such company or its servants, notwithstanding any notice, condition, or declaration made and given by such company contrary thereto, or in anywise limiting such liability; every such notice condition or declaration being hereby declared to be null and void: Provided always, that nothing herein contained shall be construed to prevent the said companies from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods, or things, as shall be adjudged by the court or judge before whom any question relating thereto shall be tried to be just and reasonable: Provided always, that no greater damages shall be recovered for the loss of or for any injury done to any of such animals, beyond the sums herein-after mentioned; (that is to say,) for any horse fifty pounds; for any neat cattle, per head, fifteen pounds; for any sheep or pigs, per head, two pounds; unless the person sending or delivering the same to such company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned; in which case it shall be lawful for such company to demand and receive by way of compensation for the increased risk and care thereby occasioned, a reasonable per-centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per-centage or increased rate of charge shall be

Company not liable beyond a limited amount in certain cases, unless the value declared and extra payment made.

notified in the manner prescribed in the Statute Eleventh George Fourth and First William Fourth, chapter sixty-eight, and shall be binding upon such company in the manner therein mentioned: Provided also, that the proof of the value of such animals, articles, goods, and things, and the amount of the injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury: Provided also, that no special contract between such company and any other parties respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods, or things respectively for carriage: Provided also, that nothing herein contained shall alter or affect the rights, privileges, or liabilities of any such company under the said Act of the Eleventh George Fourth and First William Fourth, chapter sixty-eight, with respect to articles of the descriptions mentioned in the said Act. Proof of value.
Special contract to be signed.
Saving of carriersact.

8. This Act may be cited for all purposes as "*The Short title Railway and Canal Traffic Act, 1854.*"

COURT OF CHANCERY (LANCASTER) 1854.

17 & 18 Vict. cap. 82. An Act further to improve the Administration of Justice in the Court of Chancery of the County Palatine of Lancaster (so far as it amends the Lands Clauses Act.)
[7th August, 1854.]

Monies payable under 13 & 14 Vict. c. 43, s. 12, into the bank of England may be paid into branch bank within the county palatine.

13. And whereas by the twelfth section of the said act of the thirteenth and fourteenth years of the queen, chapter forty-three, it was enacted, that all monies payable in respect of lands situate within the said county palatine, and which are authorized to be paid into or deposited in the bank of England to the account of the accountant general of the high court of chancery, under and by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act passed or to be passed incorporating the provisions of the said last-mentioned act, or otherwise authorizing the taking or using of lands situate in the said county palatine, and also that all monies and securities held by any party who might be sued in the court of chancery of the said county palatine in respect thereof, and which, under and by virtue of an act made and passed in the parliament held in the tenth and eleventh years of the reign of her present majesty, intituled An Act for better securing Trust Funds, and for the Relief of Trustees, might be in like manner paid or transferred into or deposited in the bank of England to the account of the said accountant general, might, from and after the passing of the said act now in recital, be in like manner paid or transferred into or deposited in the bank of England, to the joint account of the clerk of the council of the Duchy of Lancaster and of the registrar and comptroller of the said county palatine court, in the matter in respect whereof such payment, transfer, or deposit should be made, and that the receipt of one of the cashiers of the said bank should be a full discharge to the person paying or transferring or depositing the same, and that such monies and securities, and all costs of application in respect thereof, should be dealt with by the said court of chancery of the county palatine in the same manner as the same might be dealt with by the high court of chancery, or by the lord high chancellor or any of the judges of the said high court, if such monies or securities had been paid or transferred into or deposited in the bank of

England to the credit of the accountant general of that court, and the lands in respect of which such payment, transfer, or deposit should be made might be dealt with in the same manner, as if it had been made in manner prescribed by "The Lands Clauses Consolidation Act:" And whereas since the passing of the said recited act the said county palatine has been divided into districts, and registrars and comptrollers have been appointed for such districts respectively: Be it enacted that any monies and securities to be paid or transferred or deposited under the said recited provision may be so paid or transferred into or deposited with some one or other of the branches of the bank of England within the said county palatine, to the joint account of the clerk of the council of the duchy of Lancaster and the registrar and comptroller of the district within which such branch bank is so situate, and the receipt of the manager, or agent, or cashier of such branch bank shall be a full discharge to the person paying or transferring or depositing the same, and such payment, transfer, or deposit shall have the same force and effect as any payment, transfer, or deposit made under the said recited provision would have had: Provided always, that no monies shall be so paid or deposited under or by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act as aforesaid, in case the party who would have been entitled to the rents and profits of the lands in respect of which such monies shall be payable, or his or her guardian or committee in case of infancy or lunacy, shall at any time before such payment or deposit serve or cause to be served a notice in writing at the office of the company taking the lands, requesting them not to make the payment or deposit.

17 & 18 VICT.
CAP. 82.

INCLOSURE, &c. OF LAND, 1854.

17 & 18 Vict. cap. 97. An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land (so far as it amends the Lands Clauses Act.) [10th August, 1854.]

WHEREAS it is expedient that "The Acts for the Inclosure, Exchange, and Improvement of Land" should be amended and further extended: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Application of compensation for common rights paid under 8 & 9 Vict. c. 18.

15. Where any money shall have been or may hereafter be paid to a committee under "The Lands Clauses Consolidation Act, 1845," or under any railway or other special act by which money may have been directed or authorized to be paid to a committee as compensation for the extinction of commonable or other rights, or for lands, being common lands, or in the nature thereof, the right to the soil of which may have belonged to the commoners, and the majority of such committee shall be of opinion that the provisions of such act for the apportionment thereof cannot be satisfactorily carried into effect, such majority may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money, to determine whether or not such compensation money shall be apportioned under the provisions of this act.

Money to be paid into bank of England.

See 22 & 23 Vict. c. 43, s. 9.

16. If the majority in number and interest shall resolve that such compensation money shall be apportioned, the amount of such compensation money shall be forthwith paid into the bank of England, to the credit of an account to be named by the inclosure commissioners for England and Wales; and the said committee shall be absolutely discharged from all liability in respect of such compensation money, upon payment thereof into the bank of England as herein-before directed.

Interests to be ascertained by commissioners.

17. As soon as the said monies shall have been paid into the bank, as aforesaid, the said inclosure commissioners, or any assistant commissioner appointed or to be appointed by them for that purpose, shall proceed to ascertain, determine and award the names of the parties who were entitled to such estates, rights and interests in

the said common and commonable lands; and the amount or value of their respective shares, rights, and interests therein, and the proportionate amount of the price so to be paid as aforesaid for such estates, rights, and interests to which each party so entitled as aforesaid is entitled, in respect of his share, right, or interest as aforesaid; and the award of the commissioners under their common seal, or assistant commissioner in writing under his hand and seal, shall be binding on all parties claiming such estates, rights, and interests as aforesaid; and for the purpose of ascertaining the rights and interests of such parties as aforesaid it shall be lawful for the said inclosure commissioners or assistant commissioner to call such meetings as they or he shall think fit of all persons having or claiming any such rights or interests in the said common and commonable lands as aforesaid, at such time and place as the said commissioners or assistant commissioner shall think fit, so as the same shall be appointed by a public notice thereof in writing to be affixed at least twelve days before such meeting on the principal outer door of the parish church in which such land or any part is situate; and to be inserted in one of the public newspapers published or generally circulated in the county in which such land is situate; and at such meeting the said commissioners or assistant commissioner do and shall proceed to examine into and ascertain all and every the claims which shall be made or put forward in respect of any such rights or interests as aforesaid, and the relative and proportionate value of the estates, rights, and interests of any person or persons claiming to be entitled thereto, and for that purpose do, and may employ any valuer or surveyor, and call for, and receive such records, deeds, and writings, and such other proof or evidence, as the said commissioners or assistant commissioner may think fit; and they and he are and is hereby authorized and required to take the testimony of any witnesses upon oath (which oath they and he are and is respectively hereby empowered to administer), or to take the affirmation of such witnesses in cases where affirmation is allowed by law instead of oath.

18. All the costs and expenses of the said inclosure commissioners and assistant commissioner, and of any valuer or surveyor employed by them or him under the provisions herein before contained, shall, in the first place, be paid out of such compensation monies, and the residue of the said monies shall be paid and divided between and amongst the said several parties to be named in the said award, and in the shares and proportions to be ascertained and set forth in such award.

17 & 18 Vict.
CAP. 97.

As to the
payment of
costs of in-
closure
commis-
sioners, and
as to the
residue of
monies.

17 & 18 VICT.
CAP. 97.

Compensation for
limited in-
terests to
be paid to
trustees.

19. When it shall appear to the commissioners or assistant commissioner that any of the parties entitled to such rights or interests are only entitled thereto for a limited interest, then it shall be lawful for them or him, by their or his award, to direct that the monies to be paid in respect of such right or interest, where the same shall exceed twenty pounds, shall be paid to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be interested in such rights or interests, and where there are no trustees, then into the hands of trustees to be appointed under the hands and seal of the commissioners to be held by them on trusts similar to the uses or trusts to which such rights or interests had been immediately before the payment of such monies into the bank subject to, or as near thereto as the said commissioners or assistant commissioner can ascertain; and the receipts of any trustees to whom any such monies shall be paid as aforesaid shall be good and sufficient discharges for the same: Provided always, that the payment of all such sums shall from time to time be subject to such rules and regulations, for the purpose of ensuring the payment thereof to the person or persons duly entitled to receive the same, as the said commissioners shall by any order direct.

As to sums
payable in
respect of
lands not
exceeding
20l.

20. In all cases where the sum payable by virtue of such award, in respect of any estate, right, or interest, shall not exceed twenty pounds, and the person entitled to such estate, right, or interest shall be under any disability or incapacity, such sum shall and may be paid to the guardian, committee, or husband of such person; and where any such person shall have a limited interest only in such estate, right, or interest, the whole of such sum shall and may, nevertheless, be paid to the person having such limited interest, to his or her guardian, committee, or husband, as the case may be.

COURT OF EXCHEQUER (IRELAND), 1855.

18 & 19 Vict. cap. 50. An Act to amend the
Provisions of the Court of Exchequer (Ireland)
Act, 1850. [16th July, 1855.]

WHEREAS by an act passed in the thirteenth and fourteenth years of the reign of her present Majesty, intituled "An Act for the Transfer of the Equitable Jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland," it is amongst other things enacted, that on the first day of August one thousand eight hundred and fifty the power, authority, and jurisdiction of the court of exchequer in Ireland as a court of equity should be transferred to the court of chancery in Ireland: and whereas doubts have arisen as to the powers of the said court of chancery with respect to monies since directed by parliament to be paid into the bank of Ireland as compensation to the credit of the accountant general of the court of exchequer in Ireland, and it is expedient to remove such doubts: be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

18 & 14 Vict.
c. 51.

1. That where by any act heretofore passed, whether public general or local and personal, any amount or sum of money is authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court of exchequer in Ireland, as compensation, under any such act or any act incorporated therewith, it shall be lawful to pay such money into the bank of Ireland in the name and with the privity of the accountant general of the court of chancery in Ireland, to be placed to his account there, and to be dealt with in like manner as authorized by the recited act with respect to accounts transferred thereunder from the court of exchequer in Ireland to the court of chancery, and as fully and in all respects, and with like powers in relation thereto, as if the said court of chancery had in any such public general or local and personal act as aforesaid been named therein instead of the court of exchequer in Ireland.

Power to pass certain monies into the bank of Ireland to the credit of the accountant general of the court of chancery.

2. Where any amount or sum of money so authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court

Monies already paid into the court of

18 & 19 Vict.
CAP. 50.

chancery to
be dealt with
by that
court.

of exchequer in Ireland, as compensation, under any such act, has already been paid into the bank in the name and with the privity of the accountant general of the court of chancery in Ireland, such payment shall be deemed to have been a good payment, and shall be deemed to have had and shall have the same effect, and the court of chancery shall have the like powers in relation thereto, as if the said court of chancery had been named in such act instead of the court of exchequer, and as well with respect to any right, interest, or claim of her majesty, her heirs and successors, as of all other bodies and persons whatsoever

18 & 19 VICT. cap. 122.

An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood (so far as relates to Railways).

[14th August, 1855.]

PART I.—REGULATION AND SUPERVISION OF
BUILDINGS.

6. The following buildings and works shall be exempt from the operation of the first part of this act (*inter alia*). Exemptions.

Bridges, piers, jetties, embankment walls, retaining walls, and wharf or quay walls. Bridges, &c.

The buildings belonging to any canal, dock, or railway company, and used for the purposes of such canal, dock, or railway, under the provisions of any act of parliament. Railway buildings.

20 & 21 VICT. cap. 31.

An Act to amend and explain the Inclosure Acts (so far as relates to Railways).

[10th August, 1857.]

4. For the purpose of removing all doubts as to the power of companies incorporated by special act of parliament for the making and maintaining of any railway, canal, docks, harbour, waterworks or other work, to exchange land belonging to such companies under the provisions of the said acts, be it declared and enacted, that every such company shall be deemed to be a person interested within the meaning of "The Acts for the Inclosure, Exchange and Improvement of Land," for the purpose of exchanging land belonging to the said company, and that notwithstanding the provisions in any act of parliament relating to such company specially limiting the purposes to which such land belonging to the said company shall be applicable. Exchanges of land by railway and other companies.

21 & 22 VIOT. cap. 75.

An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies. [2d August, 1858.]

WHEREAS by the Act passed in the session of Parliament 7 & 8 Vict. held in the seventh and eighth years of the reign of her a. 85. present Majesty, chapter eighty-five, section six, it is enacted, amongst other things, with respect to the cheap trains thereby required to be provided in certain cases, that the fare or charge for each third-class passenger by any such train shall not exceed one penny for each mile travelled: And whereas it is expedient to amend the said Act in manner hereinafter mentioned: And whereas it is also expedient to amend the act passed in the ninth year of the reign of her present Majesty, chapter forty-two, intituled "An Act to enable Canal Companies to become Carriers of 8 & 9 Vict. Goods upon their Canals," by restraining as herein-after c. 42. mentioned the exercise of certain powers therein contained: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. *When the distance travelled by any third-class passengers by any train run in compliance with the provisions relating to cheap trains contained in the said act of the seventh and eighth of Victoria, chapter eighty-five is a portion of a mile, and does not amount to one mile, the fare for such portion of a mile may be one penny, or when such distance amounts to one mile, or two or more miles, and a portion of another mile, the fare or charge for such portion of a mile, if the same amounts to or exceeds one half mile, may be one half-penny: Provided always, that for children of three years and upwards, but under twelve years of age, the fare or charge shall not exceed half the charge for an adult passenger.*

Fares for fractions under one mile. [Sections 1 & 2 repealed by 46 & 47 Vict. c. 34, s. 10.]

2. *After the passing of this act, no fare heretofore charged to or received from any third-class passenger by any such train as aforesaid shall in any proceeding to be hereafter instituted be deemed to have exceeded the rate prescribed in such case by the said act of the seventh and eighth of Victoria, chapter eighty-five, if the same shall*

Certain rates heretofore charged not to be deemed excessive.

not have exceeded the rate of one farthing for each entire quarter of a mile travelled.

Canal companies, being also railway companies, not to take leases of railways or canals unless specially authorized.

3. Notwithstanding anything contained in the said recited Act of the ninth year of her Majesty, it shall not be lawful for any canal or navigation company, being also a railway company, or entitled to work any railway constructed under the authority of any Act of Parliament, hereafter to accept a lease of the whole or any part of the undertaking of any other railway and canal company or of any canal or navigation company, or of the tolls, dues, or charges upon or in respect of the whole or any part of any such undertaking, except under the powers of some act or acts heretofore passed or to be hereafter passed in which the parties to any such lease shall be specifically named and authorized to enter into the same.

Made perpetual by 23 & 24 Vict. c. 41.

4. *This act shall continue in force for one year next after the passing thereof, and thence to the end of the then next session of Parliament.*

[Repealed by 38 & 39 Vict. c. 66, s. 1.]

21 & 22 Vict. cap. 98.

*An Act to amend the Public Health Act, 1848,
and to make further Provision for the Local
Government of Towns and populous Districts
(so far as relates to Railways.)*

[2nd August, 1858.]

40. It shall be lawful for any local board to agree with the proprietors of any canals, railways or tramroads, and with any landowners or other persons willing to bear the first expense thereof, for the construction or alteration of, and accordingly to cause or permit to be constructed or altered, any bridges, viaducts or arches over or under any such canals, railways or tramroads, at the expense of such persons, and at the like expense, by agreement, to purchase so much of any slopes, embankments or other parts of such canals, railways, or tramroads, or of any adjoining lands, as may be required for the foundation and supports of such bridges, viaducts or arches, and the approaches thereto, and to agree that such bridges, viaducts and arches respectively, with their approaches and accessories, shall become, and the same shall accordingly become, on completion, parts of public streets or roads maintainable and repairable at the public expense; and it shall be lawful for such board, with the consent of two thirds of their number, to agree to pay, and accordingly to pay, any portion of the expenses of such construction, alteration and purchase out of the funds at the disposal of such board for public improvements; and it shall be lawful for such board, with the consent of such proprietors and other persons interested, and on such terms as may be mutually agreed upon, to adopt any existing bridges, viaducts or arches over or under any such canals, railways or tramroads, and the approaches thereto, as public bridges, viaducts or arches, and parts of public streets or roads maintainable and repairable at the public expense.

55. The eighty-eighth and ninety-fifth sections of "The Public Health Act, 1848," shall be repealed, and in lieu thereof be it enacted, that the general district rates shall be made and levied upon the occupier of all such kinds of property as by the laws in force for the time being are or may be assessable to any rate for the

relief of the poor, and shall be assessed upon the full net annual value of such property, ascertained by the rate (if any) for the relief of the poor made next before the making of the assessments under this act, subject, however, to the following exceptions, regulations and conditions; namely, (*inter alia*)—

Railways and certain kinds of property assessable on one fourth of their net annual value.

The owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable, meadow or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any act of parliament for public conveyance shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof.

22 & 23 VICT. cap. 59.

An Act to enable Railway Companies to settle their Differences with other Companies by Arbitration. [Applied by 45 & 46 Vict. c. 74, ss. 8, 9.]
 [13th August, 1859.]

FOR the better providing for the settlement by arbitration of matters in which railway companies in the United Kingdom are mutually interested, be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

1. This act may for all purposes be cited as "Railway Companies Arbitration Act, 1859;" and the expression "Railway Companies" in this Act extends to and includes "Railway all persons being the owners or lessees of, and all contractors working any railway upon which steam power is used." Short title:

2. Any two or more railway companies, whether already or hereafter incorporated (in this act called the "the Companies"), from time to time, by writing under their respective common seals, may agree to refer and may refer to arbitration, in accordance with this act, any then existing or future differences, questions, or other matters whatsoever in which they then are or thereafter shall be mutually interested, and which they might lawfully settle or dispose of by agreement between themselves, and may delegate to the person or persons to whom the reference is made any power to determine all or any of the terms of any contract to be made between the companies which the directors of the companies respectively might lawfully delegate to any committees of themselves respectively. Power for railway companies to refer matters to arbitration.

3. The companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this act theretofore entered into between the companies, or any of the terms, conditions, or stipulations thereof. Power to alter or revoke agreements for reference.

4. Every reference or agreement in accordance with this act, except so far as it is from time to time revoked or modified in accordance with this act, shall bind the companies, and may and shall be carried into full effect. Agreements to be carried into effect.

5. Where the companies agree, the reference shall be made to a single arbitrator. Reference to single arbitrator.

Reference
to two or
more arbi-
trators.

6. Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows; to wit,

Where there are two companies the reference shall be made to two arbitrators:

Where there are three or more companies the reference shall be made to so many arbitrators as there are companies.

Appoint-
ment of
arbitrators
by com-
panies.

7. Where there are to be two or more arbitrators, every company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies.

Appoint-
ment of
arbitrators
by Board of
Trade.

8. Where there are to be two or more arbitrators, if any of the companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator; and the arbitrator so appointed shall for the purposes of this act be deemed to be appointed by the company so failing.

Appoint-
ment of
arbitrators
by com-
panies to
supply va-
cancies.

9. When the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appoint-
ment of
arbitrators
by Board of
Trade to
supply va-
cancies.

10. Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fail to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade may appoint an arbitrator; and the arbitrator so appointed by the Board of Trade shall for the purposes of this act be deemed to be appointed by the company so failing.

Appoint-
ment of
arbitrator
not revo-
cable.

11. When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the appointment, without the previous consent in writing of the other company, or every other company in writing under their common seal.

Appoint-
ment of
umpire by
arbitrators.

12. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appoint-
ment of
umpire by

13. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies, or any of them,

the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators.

14. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

15. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the companies, or any of them, the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators so failing.

16. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

17. Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

18. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators, or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath; and in Scotland may grant diligence for the recovery of the documents or evidence, and for citing witnesses, and on application to the Lord Ordinary he may issue letters of supplement or other necessary writs in support of the diligence.

19. Except where and as the companies otherwise agree, the arbitrator, and the arbitrators, and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

20. The arbitrator, and the arbitrators, and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to the companies respectively, the arbitrator, or the arbitrators, or the umpire shall think fit so to proceed.

Several awards may be made.

21. The arbitrator, and the arbitrators, and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred; and every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

22. The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such a time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies.

Umpire may extend period for making his award.

23. Provided always, That (except where and as the companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not to be set aside.

24. No award made on any arbitration in accordance with this act shall be set aside for any irregularity or informality.

Awards to be obeyed.

25. Except only so far as the companies bound by any award in accordance with this act from time to time otherwise agree, all things by every award in accordance with this act lawfully required to be done, omitted, or suffered shall be done, omitted, or suffered accordingly.

Agreements, arbitrations, and awards to have effect.

26. Full effect shall be given by all the superior courts of law and equity in the United Kingdom, according to their respective jurisdiction, and by the companies respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this act; and the performance or observance thereof may, where the courts think fit, be compelled by distress infinite on the property of the companies respectively, or by any other process against the companies respectively or their respective property that the courts or any judge thereof shall direct, and where requisite frame for the purpose.

Costs of arbitration

27. Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award

shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively. and award.

28. Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs. Payment of costs.

29. The submission to any arbitration in accordance with this act may at any time be made a rule of any of her Majesty's superior courts of record at Westminster, or, as the case may be, at Dublin, on the application of any party interested; and the court may remit the matter to the arbitrator, or to the arbitrators, or to the umpire, with any directions the court think fit. Submission to arbitration to be made a rule of court.

23 VICT. cap. 14.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices (so far as relates to Railways).
[3rd April, 1860.]

Commissioners for special purposes to assess railways;

See also 29 & 30 Vict. c. 36, s. 8.

and also the persons employed by railway companies.

5. No assessment shall be made under this act by the commissioners for general purposes in respect of the annual value or profits and gains arising from any railway, but in lieu thereof every such assessment shall be made by the commissioners for special purposes, and upon the value or profits and gains for the year ending the fifth day of April one thousand eight hundred and sixty, and the said last-mentioned commissioners shall notify the assessment to the secretary or other officer of the company upon which the same shall be made, and the amount of such assessment shall be paid, collected, and levied in like manner as any other assessment made by the said commissioners for special purposes.

6. In like manner as aforesaid the commissioners for special purposes shall assess the duties payable under schedule (E.) in respect of all offices and employments of profit held in or under any railway company, and shall notify to the secretary or other officer of such company the particulars thereof, and the said assessment shall be deemed to be and shall be an assessment upon the company, and paid, collected, and levied accordingly; and it shall be lawful for the company or such secretary or other officer to deduct and retain out of the fees, emoluments, or salary of each such officer or person the duty so charged in respect of his profits and gains.

23 & 24 VICT. cap. 29 (Local).

An Act for more effectually carrying out the Clearing House System in Ireland, and for facilitating legal Proceedings in relation thereto.

[15th May, 1860.]

Preamble.
WHEREAS for some time past arrangements have subsisted between several railway, canal, and steam packet companies and public carriers in Ireland for facilitating the transmission of the through traffic in passengers, animals, minerals, goods, and all other descriptions of traffic passing over and upon railways, canals, and steam packets belonging to different companies, for the purpose of affording in respect to such passengers, animals, minerals, goods, and such other traffic the same or the like facilities of through-booking and charges, and otherwise, as if such railways, canals, and steam-packets had belonged to one company, and for the settlement of the accounts of the receipts for through traffic in which two or more companies or parties are interested, and of the accounts arising out of the use by a company or other party of the carrying stock belonging to other companies or parties, and for the audit and adjustment of such traffic accounts of companies or parties as may be submitted to the clearing house for that purpose, which arrangements are conducted under the control and superintendence of a committee appointed by the several railway, canal, and steam packet and other companies, and persons who are parties thereto, which committee is in this act designated "the Committee" and the business of such committee has heretofore been and is now carried on under the name or style of the Irish railway clearing house (hereinafter designated "the Clearing House") in Dawson Street, in the city of Dublin: And whereas the aforesaid arrangements have been productive of great convenience to the public and to the parties thereto, and a considerable saving of expense in the transmission of passengers, animals, minerals, goods, and other traffic over and upon the railways, canals, and steam packets belonging to such parties: And whereas difficulties have arisen in carrying the objects of the clearing house into effect in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings, and it is therefore expedient to remove such difficulties, and to extend and improve the clearing house system and the proceedings connected therewith; but the purposes aforesaid cannot be effected without the authority of Parliament: May it therefore please your majesty that it may be enacted; and be it enacted by

the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Parties to the clearing house to be subject to the provisions of this act.

1. The several companies, corporations, partnerships, and persons who at the time of the passing of this act are parties to the clearing house shall be subject to the provisions of this act, and all such companies, corporations, partnerships, and persons as shall respectively become, in manner herein-after mentioned, parties to the clearing house, shall be subject to the like provisions; (that is to say,) every other company, corporation, partnership, and person who now is or are or hereafter may be engaged, or is or are or may be empowered to be engaged, either solely or in conjunction with any other business, in the business of carrying passengers, animals, minerals, goods, and moveable chattels and effects of whatever kind, or any of them, by land and water, or by land or by water, to or from any part or parts of Ireland, and all persons who shall be engaged in any such carrying business as aforesaid as lessees of or contractors, with any such company, corporation, partnership, or person.

Other parties may join with assent of committee.

2. If any company, corporation, partnership, or person who may not be a party to the clearing house shall, by writing sealed with the common seal of any such company or corporation, or under the hand of any such partnership or person, request the committee to be admitted a party to the clearing house, and the committee shall assent to such request, such company, corporation, partnership, or person shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing house.

Parties may retire on giving notice.

3. If any party to the clearing house shall desire to retire therefrom, or cease to be a party thereto, and shall give notice thereof in writing to the committee, such party shall, at the expiration of three calendar months from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing house: Provided always, that such notice shall, in the case of a company or corporation, be sealed with the common seal of such company or corporation, and in the case of a partnership to be under the hands of at least two copartners; provided also, that such party shall have paid and discharged all sums due by such party to the committee.

Committee may give parties

4. If not less than two thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary or by two members of the com-

mittee, give notice to any company, corporation, partnership, or person that they or he, as the case may be, shall cease to be a party to the clearing house at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company, corporation, partnership, or person shall, at the time so named, cease to be a party to the clearing house.

5. Subject to the provisions herein-after contained, the committee shall consist of delegates appointed by the parties to the clearing house only, and shall be composed in the manner following; (that is to say,) each company or corporation shall appoint a delegate being a director of such company or member of such corporation, each partnership shall appoint one of its members to be a delegate, and each person may appoint himself or another as a delegate, such appointment, in the case of a company or corporation, to be under seal, and in the case of a partnership to be under the hands of at least two copartners, and in the case of a person to be under the hand and seal of such person: Provided always, that any such delegate may represent two or more parties on the committee, but shall in no case have more than one vote; provided also, that the acts of the committee shall be valid and binding, notwithstanding the absence of any such delegate, or that any company, corporation, partnership, or person may happen to be unrepresented at any meeting of the committee.

6. No company, corporation, partnership, or person hereafter admitted a party to the clearing house shall be entitled to be represented on the committee by a delegate, unless the written request to be so admitted specify that the party applicant desires to be so represented, and shall specify the mode in which such delegate is to be from time to time appointed and removed, and unless the committee accept this mode of appointment or removal as a proper one; and the mode so specified for appointing any such delegate shall not be altered without the consent of the committee.

7. No person claiming to be a member of the committee under an appointment made after the passing of this act shall be or shall be entitled to act as a member thereof until the committee have resolved that they are satisfied that such member has been duly appointed, and the decision of the committee that such member is duly appointed shall not only be evidence of such due appointment, but shall, until the committee otherwise order, make such person to be a member of the committee though in fact he is not duly appointed.

8. Members of the committee which at the time of the passing of this act carries on business under the name or

notice to
retire.

Appoint-
ment of the
committee.

Parties
hereafter
admitted
may be re-
presented
on the com-
mittee.

Evidence
of appoint-
ment.

Committee

style of the Irish railway clearing house (in this act designated "the Clearing House") in Dawson Street in the city of Dublin shall, without any further appointment, be members of the committee under this act.

Meetings of
the com-
mittee,
querum,
&c.

9. The committee shall meet once a month, and at any other times whereof the secretary shall, at the written request of the chairman for the time being or any two members of the committee, give at least ten days notice in writing to every company, corporation, partnership, and person who may be parties to the clearing house, or to the secretary of every such company and corporation, and every such meeting may be adjourned from time to time as the committee shall think fit; and meetings and adjourned meetings of the committee shall be held at the offices of the clearing house in Dawson street aforesaid, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least three members, including the chairman; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least three days before the day of such meeting if the meeting be an ordinary one, and at least ten days before the day of such meeting if it be a special one, be given to every company, corporation, partnership, and person who are parties to the clearing house, or the secretary of every such company and corporation.

Appoint-
ment of
the chair-
man.

10. Until the first meeting of the committee, which shall be held after the passing of this act, Sir Edward McDonnell, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which shall be held after the passing of this act, and at the meeting to be held in the month of January in each succeeding year, the members of the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die or resign or be removed, the committee shall have power as soon as may be to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at the meeting in the month of January in any year shall continue in office so long only as the person in whose place

he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies, corporations, partnerships, or persons, parties to the clearing house, but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

11. If at any meeting of the committee the chairman shall not be present the members of the committee present shall choose one of their number to be chairman of such meeting. In the absence of the chairman committee

12. The committee may appoint sub-committees consisting of such number of members of the committee as they think fit, and shall fix the quorum of such sub-committees, and may grant to such sub-committees power to do any acts relating to the affairs of the clearing house which the committee could lawfully do, and may from time to time think proper to entrust to them; and all questions at any meeting of the sub-committees shall be determined by a majority of the votes of members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of such sub-committee: Provided always, that the acts, minutes, and proceedings of the sub-committees shall from time to time be submitted to the committee, but all such acts, minutes, and proceedings shall be held to be valid, and shall take effect, unless and until they are overruled by the committee. to elect a chairman. Sub-committee and meetings thereof.

13. At every meeting of any such sub-committee the members thereof present shall appoint one of their number to be chairman of such meeting, who shall be entitled to give one vote as an ordinary member, and in case of an equality of votes shall be entitled to give another vote as the casting vote. Chairman of sub-committee.

14. James Waller Elwin shall be the secretary to the committee until his death or resignation or removal, whichever shall first happen, and the committee shall have the power to remove him and all future secretaries, and in the event of the resignation or death or removal as aforesaid of any secretary the committee shall appoint a secretary in his stead. Appointment of secretary.

15. Any money which shall be received by the committee shall be held by them as trustees for the party or parties to whom the committee shall decide such money to be payable, but no member of the committee shall be answerable for any such money as may be lost or withheld by reason of any cause other than his own personal misconduct. As to monies received by committee.

Accounts to be settled and balance ascertained and declared by the committee. 16. The accounts of the clearing house, and the balances due to and from the several parties thereto, shall be settled and adjusted by the secretary to the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing house by the parties thereto; and in case of any difference respecting such accounts, the decision of the committee to the effect that any balance or sum is payable by any company, corporation, partnership, or person, then or theretofore party to the clearing-house, shall be final and conclusive; and so long as any such balance or sum which the committee shall decide to be payable by any party, or any part thereof, shall not be paid, interest shall accrue and be paid on the same at such rate per centum per annum, not exceeding seven pounds per centum, as the committee shall from time to time determine, and such sum or balance, with interest thereon as aforesaid, shall be a debt due to the committee.

Interest on balances in arrear. 17. The committee shall out of the funds of the clearing house pay all the expenses of the clearing house, and all costs, charges, damages, and expenses which the members of the committee or sub-committee, or any or either of them, as such members or member, or which the secretary as nominal plaintiff or defendant, or other party on behalf of the committee, may bear, sustain, or be put to; and the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing house, and by the parties thereto, of, from, and against all actions, suits, and proceedings of any sort, costs, charges, damages, and expenses, to which they or any of them may in any way be subjected as members or member of the committee, or as secretary to the committee, by reason of anything which they or he may bonâ fide do or omit to do, whether such deed or omission be within their powers or not.

Expenses to be paid out of the funds of the clearing house. 18. The committee may, by action of debt in the name of their secretary, in any court of competent jurisdiction in Dublin, Westminster, or Edinburgh, as the case may be, recover from any company, corporation, partnership, or person any balance or sum, with interest thereon, not exceeding the rate of seven pounds per centum per annum, which the committee shall decide to be payable by such company, corporation, partnership, or person, whether to any other company, corporation, partnership, or person, or on account of the clearing house, and whether such company, corporation, partnership, or person be still at the time of such decision or has then ceased to be a party to the clearing house, and whether such sum or balance and interest shall or shall

Committee may sue for balances or sums due. 19. The committee may, by action of debt in the name of their secretary, in any court of competent jurisdiction in Dublin, Westminster, or Edinburgh, as the case may be, recover from any company, corporation, partnership, or person any balance or sum, with interest thereon, not exceeding the rate of seven pounds per centum per annum, which the committee shall decide to be payable by such company, corporation, partnership, or person, whether to any other company, corporation, partnership, or person, or on account of the clearing house, and whether such company, corporation, partnership, or person be still at the time of such decision or has then ceased to be a party to the clearing house, and whether such sum or balance and interest shall or shall

not have been previously ascertained by the secretary to be payable.

19. If in any action brought according to this act the defendants shall plead that they never were indebted, or any plea in substance amounting to a denial that the defendants ever were indebted, the plaintiff shall, on issue joined on such plea, be entitled to a verdict, upon proof that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time a party to the clearing house, and in the latter case, upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained while the defendants were parties to the clearing house.

20. The defendants in such action may plead any matter showing that they have, since the time of the decision, discharged the sum or balance and interest so decided to be payable, but shall not plead any plea denying the plaintiff to be secretary.

21. In support of any action under this act, it shall not be necessary as part of the opening case for the applicant or plaintiff to prove otherwise than as hereafter mentioned that the members of the committee were duly appointed, or that the meeting was duly instituted or holden, or that the proceedings were regular, but it shall be sufficient as *prima facie* evidence of those facts respectively to prove that the decision or resolution in question was made at a meeting purporting to be a meeting of the committee.

22. On the trial of any action under this act any company, corporation, partnership, or person who may have acted as a party to the clearing house shall, upon proof thereof, be estopped from contending that at the time when they so acted they were not a party thereto, and they shall also be precluded from repudiating any accounts adjusted by or authorized to be adjusted by the committee, or the acts of their respective delegates during the time such delegate was a member of the committee.

23. The committee shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "Chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry pur-

Proof in case of plea of never indebted.

Evidence in support of summons, rule, or action.

Parties to the clearing house estopped from denying that they are such parties, or repudiating accounts. Entries in books.

porting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed till the contrary be proved.

Books of the committee, or certified copies thereof, to be *prima facie* evidence, and the committee and secretary to be competent witnesses.

24. On the trial of any such action, after it is proved to the satisfaction of the court or judge trying the cause that such company, corporation, partnership, or person is or had once been a party to the clearing house, the books kept by the committee shall be *prima facie* evidence of the truth of the matters therein stated and contained, and such books and all entries therein may be proved by copies, and a certificate that any writing is such a copy subscribed to or endorsed on such writing, and purporting to be signed by the chairman or secretary of the committee, shall be sufficient proof that such writing is a true copy, without proof of the signature or of the official character of the person who signs it, and such copy shall have the same effect in evidence as the originals respectively would have had; and the secretary, although the nominal plaintiff, and the members of the committee, shall be competent witnesses either for the plaintiff or for the defendants.

Suits to be in the name of the secretary to the committee.

25. The committee to the clearing house may in all cases sue and be sued in the name of the secretary to the committee; and in all proceedings at law and in equity, and in bankruptcy or insolvency, or of any other sort, whether civil or criminal, the name of the secretary may be used instead of the names of the members of the committee and of the parties to the clearing house, and proofs in cases of bankruptcy, insolvency, or winding-up affairs may be made by the said secretary.

In criminal proceedings property of committee to be deemed the property of secretary.

26. In any indictment or information for any felony or misdemeanor, wherein it shall be necessary to state the ownership of any property whatsoever, whether real or personal, and the same shall either belong to the committee, or be in their custody or in the custody or possession of any officer, clerk, or servant to the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing house, or shall be used or intended to be used for the purposes of the clearing house, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal proceedings.

27. In any indictment for embezzlement wherein it shall be necessary to state the party charged with the

embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

28. Every notice or requisition on the business of the clearing house, or given pursuant to this act, shall be sufficient if it be in writing, signed by the secretary of the committee or by the secretary or other officer of the company, corporation, or by the partnership or person giving the same, and if it be sent by the general post addressed to the secretary of the company or corporation, or to the partnership or person for whom the same is intended, or to the secretary, at the office of the clearing house, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters intended to be forwarded by the general post shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid addressed to him at his private residence, or at the principal office of the company or corporation, or the place of business of the partnership or person whom he represents.

29. Every writ, summons, intimation, or other document in and about all legal proceedings in the name of the secretary to the committee pursuant to this act against any company, corporation, partnership, or person who shall be or shall have been a party to the clearing house may be served or given, as the case may be, by forwarding the same by post in a registered letter from the chief post office in Dublin, addressed in the case of a company or corporation to the secretary thereof at the principal office of such company or corporation, and in the case of all other parties to such parties at their respective places of business, and proof of such writ, summons, intimation, or other document having been so forwarded shall be deemed proof of the due service thereof.

30. In all pleadings or proceedings, civil or criminal, it shall be sufficient to mention the companies, corporations, partnerships, and persons who are parties to the clearing house by the description of "the Parties to the Clearing House mentioned in the Clearing Act (Ireland), 1860," and to describe the committee by the description of "the Clearing House Committee mentioned in the

ings to be prosecuted in the name of secretary.

Service of notices.

Service of writs, &c.

Description of parties to the clearing house and committee in legal

proceedings.

Description of the secretary in legal proceedings.

Actions, &c. not to abate on death or removal or resignation of secretary.

Power to committee to arbitrate on questions referred to them, or to appoint arbitrators.

22 & 23 Vict. c. 59.

Clearing Act (Ireland), 1860," instead of stating the names of the individual parties and members.

31. In all cases where the name of the secretary to the committee shall be used under the authority of this act it shall be sufficient to name and describe him, and to state the authority for using his name.

32. Upon the death or removal or resignation of any secretary no action or suit, or other proceeding pending in his name as plaintiff or defendant, or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be therein after used; and in an action at law such name shall, whether before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed, and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee, or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

33. All such companies, corporations, partnerships, and persons as are mentioned in the first section of this act, whether parties to the clearing house or not, may agree to refer and may refer to the arbitration of the committee or the said sub-committee, or any arbitrators and umpire to be chosen by or out of the committee, any existing or future differences, questions, or other matters whatsoever in which any such companies, corporations, partnerships, and persons then are or thereafter shall be mutually interested, and which they might settle or dispose of between themselves, and may delegate to the committee or the said sub-committee, or to the arbitrators and umpire to be chosen by or out of the committee, as the case may be, power to determine all or any of the terms of any contract to be made between the parties to any such reference; and all the powers conferred on railway companies by "The Railway Companies Arbitration Act, 1859," may be exercised by and shall in reference to this act be held to apply to and include all such parties as aforesaid; and all the provisions of the said "Railway Companies Arbitration Act, 1859," with respect to the appointment of arbitrators and umpire, either in the first instance, or to supply vacancies occasioned by death, incapacity, unfitness, or failure to act, and whether by the companies or by the board of trade, and the powers of arbitrators and umpire, and the proceedings in the arbitration, may be exercised by or in reference to the committee and the said sub-committee, and arbitrators and umpire to be chosen by or out of the committee, as the case may be, on behalf of any such

parties as aforesaid; and all the provisions of the last-mentioned act with respect to awards and the costs of the arbitration and awards shall be held applicable to and shall apply to any references to and awards to be made by the committee or the said sub-committee, or any arbitrators or umpire to be chosen by or out of the committee.

34. The submission to any arbitration in accordance with this act may at any time be made a rule of one of her majesty's superior courts of record at Dublin on the application of any party interested, and the court may remit the matter to the committee or the said sub-committee, or any arbitrator or arbitrators to be chosen by or out of the committee, with any direction the court think fit. Submission to arbitration may be made rule of court.

35. All the costs, charges, and expenses of obtaining and passing this act, or incident thereto, shall be paid by the committee out of such moneys as shall come to their hands after the passing of this act, or shall be in their hands at the time of the passing thereof. Expenses of act.

36. This act shall be called "The Clearing Act (Ireland), 1860," and shall be deemed to be a public act, and as such shall be judicially noticed. Short title. Public act.

23 & 24 VICT. cap. 41.

An Act to make perpetual an Act of the Twenty-first and Twenty-second Years of Her present Majesty, to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies.
[23rd July, 1860.]

Whereas an act was passed in the session of parliament held in the twenty-first and twenty-second years of the reign of her present Majesty, intituled "An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies:" And whereas the said act will expire at the end of the present session of parliament, and it is expedient to make the said act perpetual: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

1. That the said recited act shall be perpetual.

Recited act made perpetual.

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RAILWAYS (IRELAND), 1860.

23 & 24 Vict. cap. 97. An Act for amending and making perpetual the Railways Act, Ireland, (1851). [13th August, 1860.]

WHEREAS it is expedient that "The Railways Act, (Ireland), 1851," should be amended as herein-after provided, and that with such Amendments the said Act should be made perpetual: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

14 & 15 Vict. c. 70.

See also 27 & 28 Vict. c. 71, and 31 & 32 Vict. c. 70.

I. The Words "Twenty-one" shall be substituted for the Words "Thirty-one" in the Eighth Section of the said Act, and the Word "Fourteen" shall be substituted for the Words "Twenty-one" in the Ninth Section of the same Act.

Periods of notices shortened.

II. The Twenty-second Section of the said Act is hereby repealed; and in lieu thereof be it enacted, That when the Company are desirous, for the Purposes of their Works, of entering upon any Lands before they would be entitled to enter thereon under the Provisions in the said Act, as amended by this Act, it shall be lawful for the Company, at any Time after the Arbitrator shall have framed his Draft Award, upon depositing in the Bank of Ireland as herein directed such Sum or Sums as the Arbitrator may certify to be in his Opinion the proper Amount to be so deposited in respect of any Lands authorized to be purchased or taken by the Company, and mentioned in such Draft Award, or of the several Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, to enter upon and use such Lands for the Purpose of the Railway and Works of the Company; and the Arbitrator shall, upon the Request of the Company, at any Time after he shall have framed such Draft Award, certify under his Hand the Sum or Sums which in his Opinion should be so deposited by the Company in respect of any Lands mentioned in such Draft Award; or of any such Interests therein as aforesaid, before they enter upon or use the same as aforesaid, and the Sum or Sums to be so certified shall be the Sum or Sums set forth in such Draft Award as payable by the

After deposit of draft award company may, upon deposit of such amount as arbitrator may think fit, enter on lands.

23 & 24 VICT.
CAP. 97.

Company in respect of such Lands or of such Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, or such greater Amounts as to the Arbitrator under the Circumstances of the Case shall seem proper; and notwithstanding such Entry as aforesaid, all proceedings for and in relation to the Completion of the said Award, the Delivery of Certificates, and other Proceedings under the said Act as amended by this Act, and under this Act, shall be had, and Payments made as if such Entry and Deposit had not been made: Provided that the Company shall, where they enter upon any Lands by virtue of this present Provision, pay Interest at the Rate of Five Pounds *per Centum per Annum* upon the Purchase and Compensation Money payable by them in respect of any Lands so entered upon from the Time of their Entry until the Time of the Payment of such Purchase Money and Compensation to the Person entitled thereto, or where, under the Provisions of the said Act as amended by this Act, such Purchase Money or Compensation is required to be paid into the said Bank, then until the same with such Interest is paid into such Bank accordingly; and where under this Provision Interest is payable on any purchase or Compensation Money, the Certificate to be delivered by the Company in respect thereof shall specify that Interest is so payable, and the same shall be recoverable in like manner as the Principal Money mentioned in such Certificate.

Mode of
deposit.

III. The Twenty-third Section of the said Act is hereby repealed; and in lieu thereof be it enacted, That the Sum or Sums to be deposited as aforesaid in respect of any Lands or any Interests in any Lands shall be paid into the Bank of *Ireland* in the Name and with the Privity of the Accountant General of the Court of Chancery in *Ireland*, to be placed to his Account there, to the Credit of the Company (describing the Company by its proper Name), in the Matter of "The Railways Act (*Ireland*), 1851," and of the respective Owners of the Lands or of the Interests in Lands in respect of which the same is or are paid as aforesaid, subject to the Control or Disposition of the said Court, and upon such Deposit the Cashier of the said Bank shall give to the Company, or the Party paying in such Money by their Direction, a Receipt for the same.

Deposit to
remain as a
security, and
to be applied
under di-

IV. The Twenty-fourth Section of the said Act is hereby repealed: and in lieu thereof be it enacted, That the Sum or Sums of Money so deposited as last aforesaid shall remain in the Bank by way of Security to the

Parties respectively in respect of whose Interests in the Lands which shall so have been entered upon such Sum or Sums shall have been deposited for the payment of the Money to become payable by the Company to such Parties respectively, for their respective Interests in such Lands under the Award of the Arbitrator; and the Money so deposited may, on Application by Petition of the Company, be ordered to be invested in Bank Annuities or Government Securities, and Accumulated; and upon such Payment as aforesaid by the Company it shall be lawful for the Court of Chancery in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Company, or in default of such payment as aforesaid by the Company, it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties for whose Security the same shall so have been deposited.

23 & 24 Vict.
CAP 97.

section of
the court of
chancery.

V. If Part only of the Lands charged with any Rent-charge or Fee-farm Rent be required to be taken for the Purposes of the Special Act, the Apportionment of any such Rent or Rentcharge may be settled by Agreement between the Party entitled to the same and the Owner of the Lands on the one Part and the Promoters of the Undertaking on the other Part, and if such Apportionment be not settled by Agreement the same shall be settled by the Arbitrator; and the Owner of the Rent-charge or Fee-farm Rent shall have all the same Rights and Remedies for the Recovery of such apportioned Part, as against the Lands not required for the Purposes of the Special Act, as previously to such Apportionment he had for Recovery of the entire.

Apportion-
ment of rent
charge, &c.
where part
only of the
land
charged is
required.

VI. If any Lands shall be comprised in a Lease for a Life or Lives or for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of the Special Act, the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands, and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Promoters of the Undertaking on the other Part, and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by the Arbitrator, and after such Apportionment the Lessee of such Lands shall as to all future accruing Rent be liable only to so much of the Rent as shall be apportioned in respect of the Lands not required

Apportion-
ment of rent
of land
under lease
where part
only of such
lands is
required.

25 & 26 Vict.
CAP. 97.

for the Purposes of the Special Act; and as to the Land not so required, and as against the Lessee, the Lessee shall have the same Rights and Remedies for the Recovery of such Portion of Rent as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of the Special Act, in the same Manner as they would have done in case such Part only had been included in the Lease.

Costs in case
of traverse.
[Amended
by 31 & 32
Vict., c. 70.]

VII. In case upon the Trial of any Traverse under the Provisions of the said Act it shall appear that the Sum awarded to the Traverser by the Jury shall be less than the Sum awarded by the Arbitrator, it shall be lawful for the Judge, if he shall think fit, to adjudge that such Traverser is not entitled to any Costs of such Traverse, or that the Company is entitled to Costs not exceeding the Sum of Ten Pounds against such Traverser; and such Adjudication of such Judge shall be entered in the Crown Book, and such Costs so awarded shall be deducted from the Purchase or Compensation Money payable by the Company to such Traverser, or shall be recovered from him by Distress in like Manner as is provided by the Fifty-third Section of "The Lands Clauses Consolidation Act, 1845," with respect to Costs payable to Promoters.

Acts to be as
one act and
to be per-
petual.

VIII. "The Railways Act (Ireland), 1851," as amended by this Act, and this Act, shall be read together as One Act, and shall be made perpetual, and this Act shall be held to be incorporated with that Act in any Act already or hereafter incorporating that Act.

Short title.

IX. This Act may be cited as "The Railways Act (Ireland), 1860."

LANDS CLAUSES AMENDMENT, 1860.

23 & 24 Vict. cap. 106. An Act to amend the Lands Clauses Consolidation Act (1845) in regard to Sales and Compensation for Land by way of a Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts.

[20th August, 1860.]

WHEREAS it is expedient to extend the Provisions of the Lands Clauses Consolidation Acts, 1845, in regard to Sales of Land or Compensation for Damages, in consideration of an annual Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Act for the Purchase of Lands wanted for the Service of the War Department or for the Defence of the Realm: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. So much of the Tenth Section of the Lands Clauses Consolidation Act, 1845, as provides that, save in the Case of Lands of which any Person is seised in fee or entitled to dispose absolutely for their own Benefit, the Consideration to be paid for any Lands, or for any Damage done thereto, shall be in a gross Sum, is hereby repealed.

Part of
sect. 10 of
recited act
repealed.

II. The Power to sell and convey Lands in consideration of an annual Rentcharge provided by the Tenth Section of the said Act, and the Power to recover such Rentcharge provided by the Eleventh Section of the said Act, are hereby extended to all Cases of Sale and Purchase or Compensation under the said Act where the Parties interested in such Sale, or entitled to such Compensation, are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act.

Sects. 10 &
11 of recited
act as to
power to sell
&c. lands
for an annual
rent-charge,
and to
recover ex-
tended to all
cases, &c.

23 & 24 Vict.
CAP. 106.

Similar
proviso with
regard to
lands sold
under sect.
10 of 8 & 9
Vict. c. 19.

Amount of
rentcharge
to be settled
in manner
directed in
the 9th sec-
tion of
said acts.

III. The Power to sell and convey Lands in consideration of an Annual Feu Duty or Ground Annual, under the Tenth Section of the Lands Clauses Consolidation (Scotland) Act, 1845, and the Power to recover such Annual Feu Duty or Ground Annual, are hereby extended to all Cases of Sale or Purchase or Compensation under the said Act, where the Parties interested in such Sale are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act.

IV. In every Case of such Sale or Compensation by any Parties other than Parties seised in fee or entitled to dispose absolutely of the Lands so sold or damaged, the Amount of such Rentcharge, Annual Feu Duty or Ground Annual, herein-before mentioned, shall be settled in the Manner directed in the Ninth Section of each of the said Acts respectively: Provided that the Amount of such annual Rentcharge, Annual Feu Duty or Ground Annual, shall in no case be less than One Fourth Part greater than the net annual Rent received by the parties beneficially interested in such Lands, upon an Average of the last Seven Years; and that a Charge of Five *per Cent.* on the gross Sum estimated or fixed as aforesaid, by way of Compensation for any Damage that may be done to the said Lands, shall in all such Cases be added to and shall form a Part of the said Rentcharge, Annual Feu Duty or Ground Annual; and that no Fine, Foregift, Grassum, Premium, or other Consideration in the Nature thereof, shall be paid or taken in respect of the Lands so sold or damaged, other than the annual Rentcharge, Annual Feu Duty or Ground Annual, made payable for such Lands: Provided also, that such Rentcharge shall be and remain upon and for the same Uses, Trusts, and Purposes as those upon which the Rents and Profits of the Land so conveyed stood settled or assured at or immediately before the Conveyance thereof, and shall be a First Charge on the Tolls and Rates, if any, payable under the special Act.

If lands
purchased by
way of rent-
charge.
borrowing
powers to be
reduced pro-
portionally.

V. In case the Promoters of the Undertaking shall be empowered, by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow Money to an Amount not exceeding a prescribed Sum, then in the event of the Promoters of the Undertaking agreeing at any Time after the passing of this Act with any Person, under the Powers of this Act and of either of the Acts herein-before mentioned, or of either of the said Acts, only, for the Purchase of any Lands in consideration of the

Payment of a Rentcharge, Annual Feu Duty or Ground Annual, the Powers of the Promoters of the Undertaking for borrowing Money shall be reduced by an Amount equal to Twenty Years Purchase of any Rentcharge, Annual Feu Duty or Ground Annual, so for the Time being payable.

28 & 29 Vict.
CAP. XLIII.

VI. The Clauses contained in "The Lands Clauses Consolidation Act (1845)," relating to the Purchase of Lands by Agreement, and to Agreements for Sale and Conveyances, Sales, and Releases of any Lands or Hereditaments, or any Estate or Interest therein, by Parties under Disability, shall extend and be applicable to all Purchases of Land and Hereditaments for public Purposes which shall be hereafter made by the Council of any City or Borough, with the Sanction of the Commissioners of Her Majesty's Treasury, under the Powers for that purpose contained in "The Municipal Corporation Mortgages, &c. Act, (1860)."

Certain clauses in 8 & 9 Vict. c. 18, extended to purchases of land, &c. for public purposes.

VII. For the Purchase or Acquisition of any Messuages, Lands, Tenements, and Hereditaments wanted for the Service of the Admiralty or of the War Department or for the Defence of the Realm, it shall be lawful for Her Majesty's Principal Secretary of State for the War Department for the Time being to use all or any of the Powers and Provisions by the Lands Clauses Consolidation Act, 1845, and by the Lands Clauses Consolidation (Scotland) Act, 1845, given to Promoters of the Undertaking, as therein mentioned, and for such Purposes the said Principal Secretary shall be deemed and taken to be the Promoters of an Undertaking within the Meaning of the said Act, and all the Powers and Provisions thereof shall, if used by Her Majesty's Principal Secretary of State for the War Department, be treated as if they were contained in the Fifth and Sixth Victoria, Chapter Ninety-four, for the Purpose of being used and made available by the Principal Officers of Her Majesty's Ordnance, and had been transferred to the said Principal Secretary for the Time being by the Eighteenth and Nineteenth Victoria, Chapter One hundred and seventeen, for the Purposes aforesaid: Provided always, that nothing herein contained shall authorize any Purchase otherwise than by Agreement of any Land, except according to the Provisions of the Twenty-third Section of the said Act of the Fifth and Sixth Victoria, or prejudice or affect the Powers and Authorities of the said Principal Secretary for the Time being under the said last-mentioned Statutes, or either of them.

Power to secretary for war to use the powers given to promoters of undertakings by 8 & 9 Vict. ca. 12, 19.

VIII. This Act shall be read and construed as Part of the said Lands Clauses Consolidation Act, 1845, or of the

This act
and 9 & 9

23 & 24 Vict.
CAP. 106.

Vict. cc. 18,
and 19, to be
construed
together.

Lands Clauses Consolidation (Scotland) Act, 1845, in all Matters in which it relates to the said Acts respectively; and in citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the Expression of "The Lands Clauses Consolidation Acts Amendment Act, 1860."

LONDON COAL AND WINE DUTIES CONTINUANCE, 1861.

24 & 25 Vict. Cap. 42. An Act to continue the Duties levied on Coal and Wine by the Corporation of London, (so far as relates to Railways.)
[22nd July, 1861.]

THE preamble recites (inter alia) the acts 1 & 2 Will. 4, c. 76 (local); 1 & 2 Vict. c. 101 (local); 8 & 9 Vict. c. 101; and 14 & 15 Vict. c. 146 (local); and that by some or one of such acts, two several duties of one penny and twelpence per ton are authorized to be levied by the corporation of London upon all coals, culm, and cinders brought to any place within the port of London, or within the cities of London and Westminster and the borough of Southwark, or to any place within the distance of twenty miles from the general post office in the city of London, by any railway already constructed or hereafter to be constructed, or by inland navigation, or by any other means of conveyance. Preamble.

3. After the passing of this act the expression "London district" used in the said recited act of the fourteenth and fifteenth Victoria, chapter one hundred and forty-six, shall no longer have the meaning assigned to it by that act, but shall mean so much of the several counties of Middlesex, Surrey, Kent, Herts, Essex, Bucks, and Berks as shall be situate within the metropolitan police district, and shall include the cities of London and Westminster. Metropolitan police district substituted for the London district.

4. All the directions, powers, and provisions in the said recited act of the fourteenth and fifteenth Victoria, chapter one hundred and forty-six, with respect to returns, certificates, and accounts, and to the erection of boxes and stations and boundary stones or permanent marks on the point of any canal, inland navigation, or railway, or any turnpike or public road which shall be distant twenty miles from the general post office, and all other matters and things relating thereto, shall apply to returns, certificates, and accounts, and to the erection of boxes and stations and boundary stones or permanent marks on the point where any canal, inland navigation, or railway, or any turnpike or public road, first enters or comes within the metropolitan police district. Commencement of metropolitan police district to be marked in railways, &c.



HARBOURS AND PASSING TOLLS, &c., 1861.

24 & 25 Vict. Cap. 47. An Act to facilitate the Construction and Improvement of Harbours by authorizing Loans to Harbour Authorities; to abolish Passing Tolls; and for other Purposes, (so far as relates to Railways.)

[1st August, 1861.]

38. No dues shall be levied by the commissioners for paving, lighting, watching, and improving the town of Ramsgate on coal, culm, and coke imported, landed, or shipped within the parish or harbour of Ramsgate in the following cases; that is to say,

- (1.) When the same are wholly and in good faith consumed in and for the purposes of the said harbour or in vessels lying in the said harbour :
- (2.) When the same are wholly and in good faith consumed by the engines or on the premises of any railway company having access by means of a continuous line of railway or tramway to the said harbour : Railways having access to harbour.
- (3.) When the same are conveyed on any such railway to and delivered from the same at any place beyond the parish of Ramsgate, and the adjoining parish of Saint Lawrence, and are not thereafter delivered within either of those parishes : Conveyed by railway beyond Ramsgate and St. Lawrence.

And if, in any of such cases, dues have in the first instance been paid to the said commissioners, the parties who have paid them shall be allowed a drawback or return thereof, to be paid by the said commissioners out of any funds under their control; but if any person fraudulently obtains or endeavours to obtain the said drawback without being legally entitled to the same, he shall be liable for every such offence to a penalty not exceeding fifty shillings; and such penalty may be recovered and shall be applied in the same manner as penalties are recovered and applied under the act (local and personal) of the first and second years of the reign of her present majesty, intituled "An Act for better Paving, Lighting, Watching, and Improving the Parish of Ramsgate in the County of Kent, and for regulating the Police thereof." 1 & 2 Vict. c. 70 (local.)

47. The said Dover harbour board shall consist of seven members, four of whom shall form a quorum; the said seven members shall be the lord warden for the time Constitution of Dover harbour board.

24 & 25 VICT. c. 47. i.

24 & 25 VICT.
CAP. 47.

Appoint-
ment of
members by
south-east-
ern railway
company,
and by
London,
Chatham,
and Dover
railway
company.

being of the cinque ports, two burgesses of the borough of Dover elected by the town council every three years, and to be eligible for re-election, a member to be from time to time appointed by the president of the board of trade for the time being, a member to be from time to time appointed by the first lord of the admiralty for the time being, a member to be from time to time appointed by the south-eastern railway company under their common seal, and a member to be from time to time appointed by the London, Chatham and Dover railway company, under their common seal: Provided, that in the event of either or both of the said railway companies failing or declining to appoint a member of the said harbour board within one calendar month after having been required so to do by the president of the board of trade, then such president shall, from and after such default, be entitled thereafter to appoint from time to time another member or members in lieu thereof, as the case may be; and the said lord warden shall ex officio be chairman of the said harbour board; and the said lord warden, shall also from time to time nominate under his hand one of the members of the said harbour board to be his deputy, to preside at all meetings at which the said lord warden shall not be present; and in the event of an equality of votes at any meeting of the said board the chairman of such meeting shall be entitled to a casting vote in addition to his ordinary vote.

24 & 25 VICT. cap. 70.

An Act for regulating the Use of Locomotives on Turnpike and other Roads and the Tolls to be levied on such Locomotives and on the Waggon and Carriages drawn or propelled by the same (so far as relates to Railways).

[1st August, 1861.]

6. It shall not be lawful for the owner or driver of Use of any locomotive to drive it over any suspension bridge locomotives nor over any bridge on which a conspicuous notice has restricted been placed, by the authority of the surveyor or persons over sus- liable to the repair of the bridge, that the bridge is in- pension and sufficient to carry weights beyond the ordinary traffic of other bridges of the district, without previously obtaining the consent of the surveyor of the road or bridgemaster under whose charge such bridge shall be for the time being, or of the persons liable to the repair of such bridge; and in case such owner of the locomotive and surveyor of the road or bridge, or bridgemaster, shall differ in opinion as to the sufficiency of any bridge to sustain the transit of the locomotive, then the question shall be determined by an officer to be appointed, on the application of either party, by one of her majesty's principal secretaries of state, whose certificate of sufficiency of such bridge shall entitle the owner of the locomotive to take the same over such bridge.

7. Where any turnpike or other roads, upon which Damage locomotives are or hereafter may be used, pass or are or caused by shall be carried over or across any stream or watercourse, locomotives navigable river, canal or railway, by means of any bridge to bridges or arch (whether stationary or moveable), and such over rail- bridge or arch, or any of the walls, buttresses, or sup- ways, &c., ports thereof, shall be damaged by reason of any loco- to be made motive or any waggon or carriage drawn or propelled by good by or together with a locomotive passing over the same or coming into contact therewith, none of the proprietors, undertakers, directors, conservators, trustees, commis- sioners, or other person interested in or having the charge Company of such navigable river, canal, or railway, or the tolls not liable thereof, or of such bridge or arch, shall be liable to re- for damage pair or make good any damage so to be occasioned, or to make compensation to any person for any obstruction, so occa- interruption, or delay which may arise therefrom to the sioned.

Owners of
locomotives
liable to
company.

use of such bridge or arch, navigable river, canal, or railway, but every such damage shall be forthwith repaired to the satisfaction of the proprietors, undertakers, directors, conservators, trustees, commissioners, or other persons as aforesaid respectively interested in or having the charge of such river, canal, or railway, or the tolls thereof, or of such bridge or arch, by and at the expense of the owner or owners or the person or persons having the charge of such locomotive at the time of the happening of such damage; and all such owner and owners, person and persons, having the charge of such locomotive as aforesaid, shall also be liable, both jointly and severally, to reimburse and make good, as well to the proprietors, undertakers, directors, conservators, trustees, commissioners, and other persons interested in or having the charge of any such navigable river, canal, or railway, or the tolls thereof, or of such bridge or arch, as to all persons navigating on or using, or who but for such obstruction, interruption, or delay would have navigated on or used the same, all losses and expenses which they or any of them may sustain or incur by reason of any such obstruction, interruption, or delay, such losses and expenses to be recoverable by action at law, which action, in case of such proprietors, undertakers, directors, conservators, trustees, commissioners, or other persons so interested as aforesaid, may be brought in the name or names of their agent or agents, clerk or clerks for the time being, or by any person or persons legally authorized to act in their behalf.

MALICIOUS INJURIES TO PROPERTY, 1861.

24 & 25 Vict. Cap. 97. An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property, (so far as relates to Railways.)

[6th August, 1861.]

4. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to any railway station.

"Five," see 27 & 28 Vict. c. 47, s. 2.

33. Whosoever shall unlawfully and maliciously pull or throw down or in anywise destroy any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct any highway, railway, or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injury to a public bridge.

"Five."

35. Whosoever shall unlawfully and maliciously put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of

Placing wood, &c. on railway with intent to obstruct or overthrow any engine, &c.

[When offence committed by young person, provisions of 42 & 43 Vict. c. 49 to apply.]

24 & 25 VICT. c. 97. i.

24 & 25 VICT.
CAP. 97.

"Five."

Obstructing
engines or
carriages on
railways.

Injuries to
electric or
magnetic
telegraphs.

Attempt to
injure such
telegraphs.

felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen, with or without whipping.

36. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

37. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if it shall appear to any justice, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.

38. Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.

OFFENCES AGAINST THE PERSON, 1861.

24 & 25 Vict. Cap. 100. An Act to Consolidate and Amend the Statute Law of England and Ireland relating to Offences against the Person, (so far as relates to Railways.)

[6th August, 1861.]

32. Whosoever shall unlawfully and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Placing wood, &c., on a railway, with intent to endanger passengers [When offence committed by young person, provisions of 42 & 43 Vict. c. 49 to apply.]

"Five," see 27 & 28 Vict. c. 47, s. 2.

33. Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck of any train of which such first-mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Casting stone, &c., upon a railway carriage, with intent to endanger the safety of any person therein. [When offence committed by young person, provisions of 42 & 43 Vict. c. 49 to apply.] "Five."

34. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Doing or omitting anything to endanger passengers by railway.

HIGHWAYS, 1862.

**25 & 26 Vict. Cap. 61. An Act for the better
Management of Highways in England, (so far
as relates to Railways.) [29th July, 1862.]**

**Provisions of
5 & 6 Will.
4, c. 50, to be
applicable
to highways
under local
or personal
acts.**

**Exception
as to rail-
way com-
panies, &c.**

44. All the provisions of the principal act for widening, diverting, and stopping up highways shall be applicable to all highways which now are or may hereafter be paved, repaired, or cleansed under or by virtue of any local or personal act or acts of parliament, or which may be situate within the limits of any such act or acts, except highways which any railway company, or the owners, conservators, commissioners, trustees, or undertakers of any canal, river, or inland navigation, are liable by virtue of any act of parliament relating to such railway, canal, river, or inland navigation to make, maintain, repair, or cleanse.

HARBOURS TRANSFER, 1862.

25 & 26 Vict. Cap. 69. An Act for transferring from the Admiralty to the Board of Trade certain Powers and Duties relative to Harbours and Navigation under Local and other Acts; and for other Purposes (so far as relates to Railways).

[29th July, 1862.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as The Harbours Transfer Act, 1862. Short title.

2. In this act—

The term, "the Admiralty" shall be taken to mean the lord high admiral of the United Kingdom for the time being, or the commissioners for the time being for executing the office of lord high admiral; and when the said term is used in reference to any other act, it shall be taken to comprise any term whatsoever used in such other act to designate such lord high admiral or commissioners : Interpretation of terms.

The term "the board of trade" shall be taken to mean the lords of the committee of privy council for the time being appointed for the consideration of matters relating to trade and foreign plantations.

Railways Clauses Consolidation Acts, 1845.

6. With respect to any special act that may be passed after the end of the present session of parliament, sections seventeen of "The Railways Clauses Consolidation Act, 1845, and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively, and all provisions relative thereto in the said acts or in any such future special act contained, shall be read and construed as if the board of trade were named in the said sections instead of the admiralty. Consent and approval of board of trade to railway works on tidal lands

Special acts for railways, harbours, &c.

8. Where any special or local or local and personal act, or act of a local or local and personal nature, already passed or to be passed before the end of the present session of parliament,— Powers for protection of navigation &c. under local acts for harbours, railways,

(1.) Authorizing or regulating the construction of a
23 & 26 VICT. C. 69. i.

25 & 26 VICT.
CAP. 69.

and other
works on
tidal lands,
&c. to be
exercised by
board of
trade.

- railway, or the execution of any work whatever, situate on or affecting tidal lands, or the shore of the sea or of any navigable river, where and so far up the same as the tide flows and reflows; or,
- (2.) Authorizing or regulating the construction or improving of a harbour, dock, or pier, or works connected therewith, by any company, body corporate, commissioners, trustees, undertakers, persons or person; or,
 - (3.) Constituting or altering or regulating the constitution of any harbour or conservancy authority; or,
 - (4.) Altering or regulating the powers or duties of any harbour or conservancy authority,—

contains either expressly or by incorporation or reference or otherwise any provision for any of the purposes following;—

For preventing the construction or execution of any work or the doing of anything without the consent or approval of the admiralty, or for authorizing or requiring any work to be constructed, executed, or maintained, or anything to be done with the consent or on the requisition or to the satisfaction of the admiralty:

For empowering the admiralty to exercise any authority concerning lifeboats, mortars, rockets, tide gauges, or barometers to be provided by any undertakers:

For empowering the admiralty to make a local survey or examination at the expense of any company, body or person:

For empowering the admiralty, in case of any work being abandoned or suffered to fall into disuse or decay, or in any other case, to abate, remove, or alter any work or any part of it, or restore the site thereof to its former condition, at the like expense:

For empowering the admiralty to exercise any authority concerning lights to be maintained at night during the construction or execution of any work:

For empowering the admiralty or the first lord of the admiralty to nominate or appoint a member or members of any board or body of trustees, commissioners, or conservators, or of any harbour or conservancy authority:

For empowering the admiralty to determine any dispute or difference between or among any bodies or persons:

For empowering the admiralty or the first lord of the admiralty to nominate or appoint any arbitrator.

referee, or umpire, or any engineer, inspector, or officer, or any person to fill any place or discharge any duty under such act: 25 & 26 VICT.
CAP. 69.

or any other provision for the protection, management, or regulation of harbours or navigation, or for the exercise of any control or power over or in relation to any harbour authority, or any other provision in any wise relating to conservancy, or authorizing or requiring any act or thing concerning harbours or navigation or conservancy to be done by or in relation to the admiralty,—

Then from and after the thirty-first day of December one thousand eight hundred and sixty-two, such acts and all enactments relative thereto shall be read and construed as if in the respective provisions aforesaid the board of trade were named instead of the admiralty, and the president of the board of trade instead of the first lord of the admiralty.

9. Provided always, that where it appears to the admiralty that the interests of her majesty's naval service require that the whole or any part of any harbour, port, bay, estuary, or navigable river in, on, or adjoining to which there is or shall be any of her majesty's dock-yards, victualling yards steam factory yards, arsenals, or naval stations, should be excepted, either entirely or in some respects, out of the operation of the last foregoing section, the admiralty may give notice in writing to the board of trade that any such harbour, port, bay, estuary, or navigable river as aforesaid, or such part thereof as is in the notice specified, is to be deemed so excepted, either entirely or in the respects therein mentioned; and every such notice shall be published by the admiralty in the London, Edinburgh, or Dublin Gazette, (according as the place affected may be in England, Scotland, or Ireland,) and thereupon the harbour, port, bay, estuary, or navigable river to which such notice relates, or the part thereof therein specified, shall, either entirely or in the respects therein mentioned, as the case may require, be and remain as if this act had not been passed, but any such notice may be from time to time varied or at any time revoked by a like notice published in like manner.

Power to
admiralty to
retain au-
thority over
ports, &c.
where dock-
yards, &c.
are situate.

METROPOLIS MANAGEMENT AMENDMENT, 1862.

25 & 26 Vict. Cap. 102. An Act to amend the
Metropolis Local Management Acts, (so far as
relates to Railways). [7th August, 1862.]

Plan, &c.
of works
affecting
railways or
canals to be
submitted to
companies.

34. Where any works authorized by this or the recited acts will interfere with any railway or canal, the board or vestry proposing to construct such works shall before commencing the same give notice in writing of their intention so to do to the company owning such railway or canal, and shall together with such notice, deliver a plan and section showing the nature of such interference; and if within seven days after the receipt of such notice the company shall by writing, addressed to the board or vestry, object to the manner in which it is intended to interfere with such railway or canal respectively, on account of the probable interruption or endangering of the traffic thereon, the same works shall not be commenced; and it shall thereupon be referred to an engineer, to be appointed by the board of trade, on the application of either party, to determine the manner of executing the said works, and the determination come to by such engineer shall be binding on both parties.

Line of rail-
way not to
be altered.

35. Provided always, that it shall not be lawful for any board or vestry to alter the level of any railway or canal, unless with the consent of the company owning the same respectively, or, if that be refused, with the consent of the board of trade; and provided also, that nothing in this act contained shall take away or affect the right of any railway or canal company to compensation for the taking or injuriously affecting of any land or property of such company, or for or by reason of the interruption of any traffic on their railway or canal, or for any damages, costs, or expenses which such company may be required to pay in consequence of such interruption.

INLAND REVENUE, 1863.

26 & 27 Vict. Cap. 33. An Act for granting to Her Majesty certain Duties of Inland Revenue; and to amend the Laws relating to the Inland Revenue (so far as relates to Railways.)

[29th June, 1863.]

13. Whereas by the fourth section of the act passed in the fifth and sixth years of her majesty's reign, chapter seventy-nine, the proprietor or company of proprietors of every railway in Great Britain and other persons therein named, are required to keep and render certain accounts as therein mentioned, and it is expedient to alter the period for which such accounts are directed to be made up, and the time of delivering the same: Be it enacted, that the proprietor or company of proprietors of every railway in Great Britain, and the persons required by law to keep such accounts as aforesaid, shall deliver to the commissioners of inland revenue or to the proper officer appointed for receiving the same, within twenty days after the termination of every calendar month, a true copy or true copies of the accounts of all sums of money received or charged and paid or accounted for, as in the said act is mentioned, during the whole of the calendar month last preceding; and all the provisions and regulations contained in the said act with regard to the accounts therein directed to be rendered, and all bonds and securities entered into or given or to be entered into or given with relation thereto, shall apply, continue, and be in force as well with respect to any surety as to the principal in any such bond, and to the accounts to be kept and rendered at the time and in the manner by this act directed, and the duties payable in respect thereof.

Accounts of sums received for the conveyance of passengers upon railways to be made up at the close of each calendar month.

5 & 6 Vict. c. 79, s. 4.

14. *The exemption from duty granted by the ninth section of the act passed in the seventh and eighth years of her Majesty's reign, chapter eighty-five, in respect of the conveyance of passengers by cheap trains shall not extend to any railway train which shall not be a train running on at least six days of the week, or else a train running to or from a market town on a market day, and approved of by the lords of the committee of privy council for trade and plantations as a cheap train for the conveyance of passengers to or from market, or a train approved by the said lords of the committee of privy council as an ordinary train of the railway travelling on Sunday, and conveying third-class passengers at fares not exceeding one penny per mile.*

Restriction on exemption from duty on railway passengers granted by 7 & 8 Vict. c. 85, s. 9. [Repealed by 46 & 47 Vict. c. 34, s. 10.]

26 & 27 VICT. c. 33.

RAILWAYS CLAUSES, 1863.

26 & 27 VICT. Cap. 92. An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Railways.

[28th July, 1863.]

WHEREAS "The Railways Clauses Consolidation Act, 1845," and the "Railways Clauses Consolidation (Scotland) Act, 1845," respectively, were passed in order to comprise in one general act such provisions relating to railways in England or Ireland, or in Scotland, respectively, as were at the times of the passing of those acts usually introduced into acts of parliament authorising the construction of railways :

8 Vict. c. 20.
8 & 9 Vict.
c. 53.

And whereas sundry provisions of the like nature, but not comprised in the said general acts respectively, are now frequently introduced into acts of parliament relating to railways, and it is expedient to comprise such last-mentioned provisions also in one general act, such act to be applicable to England or Ireland, or to Scotland, as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in special acts relating to railways, as for ensuring greater uniformity in the provisions themselves :

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as "The Railways Clauses Act, 1863." Short title.

2. This act shall be deemed to be divided into five parts, as follows : Division of act into parts.

- Part I. relating to construction of a railway ;
- Part II. relating to extension of time ;
- Part III. relating to working agreements ;
- Part IV. relating to steam vessels ;
- Part V. relating to amalgamation.

PART I.—CONSTRUCTION OF A RAILWAY.

3. This part of this act shall apply to the railway authorized to be constructed by any special act hereafter passed and incorporating this part of this act. Application of part I., and interpretation of terms.

In this part of this act—

All terms used have the same meanings as the same terms have when used in "The Railways Clauses 26 & 27 VICT. c. 92. i.

26 & 27 VICT.
CAP. 92.

Consolidation Act, 1845," and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively :

The term "tidal river" means any part of a river within the flow and ebb of the tide at ordinary spring tides :

The term "tidal water" means any part of the sea or any part of a river within the flow and ebb of the tide at ordinary spring tides :

The term "tidal lands" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.

The provisions respecting the recovery of penalties contained in the said Railways Clauses Consolidation Acts respectively, as the case may require, shall be incorporated with this part of this act.

Alteration of engineering works.

Power to alter engineering works.

4. Notwithstanding anything in the said Railways Clauses Consolidation Acts, respectively, contained,—the company, in the construction of the railway, may deviate from the line or level of any arch, tunnel, or viaduct, described on the deposited plans or sections, so as the deviation be made within the limits of deviation shown on those plans, and subject to the limitations contained in sections eleven, twelve, and fifteen of those acts respectively, and so as the nature of the work described be not altered,—and may also substitute any engineering work not shown on the deposited plans or sections, for an arch, tunnel, or viaduct, as shown thereon ; provided that every such substitution be authorized by a certificate of the board of trade ; and the board of trade may grant such certificate in case it appears to them, on due inquiry, that the company has acted in the matter with good faith, and that the owners, lessees, and occupiers of the lands in which the substitution is intended to be made consent thereto, and also that the safety and convenience of the public will not be diminished thereby.

Provided, that nothing in the present section shall affect any power given to the company or to the board of trade by section eleven, twelve, fourteen, or fifteen of the last-mentioned acts respectively.

Level crossings.

Trains not to be shunted over level crossings.

5. Where the company is authorized by the special act to carry the railway across a turnpike road or public carriageroad on a level, it shall not be lawful for the company in shunting trains to pass any train over the level crossing, or at any time to allow any train, engine, carriage or truck, to stand across the same.

6. For the greater convenience and security of the public, the company shall erect and permanently maintain a lodge at the point where the railway crosses on the level the turnpike road or public carriage-road; and the company shall be subject to and shall abide by all such regulations with regard to the crossing thereof on the level, or with regard to the speed at which trains may pass the level crossing, as may from time to time be made by the board of trade.

26 & 27 VICT.
CAP. 92.

Company to
erect lodge
at point of
crossing.

If the company fails to erect, or to maintain, such lodge, or to appoint or keep a proper person to watch or superintend the level crossing, or to observe or abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, and also to a penalty of ten pounds for every day during which the offence continues after the penalty of twenty pounds is incurred.

7. The board of trade may, if it appears to them necessary for the public safety, at any time after the passing of the special act, require the company, within such time as the board of trade directs, and at the expense of the company, to carry the turnpike road or public carriage-road either under or over the railway by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as, under the circumstances of the case, may appear to the board of trade best adapted for removing or diminishing the danger arising from the level crossing.

Board of
trade may
require
bridge in-
stead of le-
vel cross-
ing.

Where the road is so carried either under or over the railway, it shall not be necessary for the company to erect or maintain a lodge at the point where the road is crossed, or to appoint a person to watch or superintend the crossing thereat, nor shall they be liable to any penalty for failure so to do.

8. If the board of trade certifies that the public safety requires that additional lands be taken by the company for the purpose of the work directed by the board of trade to be executed, the company may, subject to the provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation (Scotland) Act, 1845," as the case may require, enter upon, take, and use, all or any part of the lands specified in the certificate of the board of trade as being necessary for the purpose of the work; and the board of trade before issuing the certificate shall cause at least three months' notice to be given to any person who may be entitled to claim under the last-mentioned acts, or otherwise, compensation in respect of the taking of such lands or in respect of such work.

Power to
company to
take addi-
tional land
for such
work.
8 Vict. c. 18.
8 Vict. c. 19.

26 & 27 VICT. c. 92. iii.

26 & 27 VICT.
CAP. 92.

Communications with other railways to be made under the direction of the engineer of those railways.

Company to acquire only easements in land of other railway company.

Not to take lands or interfere with works of other company further than necessary.

As to expense of signals, watchmen, &c.

Junctions.

9. Where the company is authorized by the special act to make a junction between the railway and any other railway, then and in every such case all interferences with the works of the other railway, necessary or convenient for effecting the junction, shall be made under the superintendence and to the reasonable satisfaction of the engineer for the time being of the company or person to whom the other railway belongs; and in case of any difference arising as to the mode of effecting the junction, the same shall be determined by a referee to be appointed by the board of trade, on the application of either party, at the cost of the company making the junction.

10. With respect to any lands belonging to the company or person to whom the other railway belongs which the company are by the special act authorized to use, enter upon, or interfere with, for the purposes of the junction, the company shall not, except by agreement, or unless otherwise provided in the special act, purchase and take the same, but the company may purchase and take, and such other railway company or person may and shall sell and grant accordingly, an easement or right of using the same for the purposes of the junction.

11. Nothing relative to the junction in this act contained shall be deemed to authorize the company for the purposes of the junction to take or enter upon any lands belonging to the company or person to whom the other railway belongs, or to alter or interfere with any railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways, as shown on the deposited plans and sections of the railway to which the special act relates, without the previous consent in writing in every instance of such other railway company or such person.

12. The company or person with whose railway the junction is made may from time to time erect such signals and conveniences incident to the junction, either on their or his own lands or on the lands of the company making the junction, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to, or interference with, the traffic at and near the junction. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the company or person with whose railway the junction is made; and all the expenses of erecting and maintaining those signals and conveniences, and of employing those watchmen, switchmen, and other

persons, and all incidental current expenses, shall, at the end of every half year, be repaid by the Company making the junction, and in default thereof may be recovered from them in any court of competent jurisdiction.

26 & 27 VICT.
CAP. 92.

Protection of Navigation.

13. Where the company is authorized by the special act to construct, alter, or extend any work on, in, over, through, or across tidal lands or a tidal water, the company shall, on or near the work, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning at their own expense, every night from sunset to sunrise, such lights (if any) as the board of trade from time to time requires or approves; and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the work, when completed, always maintain, exhibit, and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) for the guidance of ships as the board of trade from time to time requires or approves.

Lights on
works.

If the company fails to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

14. Where the company is authorized or required by the special act to construct a bridge over a navigable tidal water, and the special act does not make express provision respecting the span or spans thereof, then the company shall construct the same with a span or spans of such headway and waterway, and with such opening span or spans (if any), and according to such plan, as the board of trade directs or approves.

Construction of bridges.

15. Where the company constructs a bridge with an opening span, it shall not be lawful for the company to detain any vessel, barge, or boat at the bridge for a longer time than may be necessary for admitting a carriage or engine traversing the railway and approaching the bridge to cross the bridge, and for opening the bridge to admit the vessel, barge, or boat to pass; and the company shall be subject to and shall abide by such regulations with regard to the user of the bridge as may from time to time be made by the board of trade.

User of
bridges.

If the company detains a vessel, barge, or boat longer than the time aforesaid, or fails in any respect to abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, without prejudice to any remedy against them for any loss or damage sustained by any person.

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CAP. 92.

Access to
the shore
under or
across the
railway.

16. Where the railway cuts off access between the land and a tidal water or tidal lands, then and in every such case the company shall, during the construction of the railway, and from time to time thereafter, make, and shall permanently maintain, and allow to be used by all persons, at all times, free of toll or other charge, all such footways and carriageways over, under, or across the railway, or on a level therewith, as the board of trade from time to time directs or approves: provided always, as follows:

- (1.) The company shall not be obliged to make a footway or carriageway over lands for the use of an owner or occupier who has agreed to receive and has been paid compensation for the severance thereof from the tidal water or tidal lands:
- (2.) The company shall not be obliged to make or to allow to be made a footway or carriageway in such manner as would interfere with the working or using of the railway:
- (3.) The expense of the making and maintenance of a footway or carriageway required to be made after the construction of the railway shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

Where the footway or carriageway is made across the railway on the level, then the manner of the making and watching of the level crossing shall be subject to the approval of the board of trade; and where the level crossing is made after the construction of the railway, then all expenses attending the watching thereof shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

Prohibition
of deviation
of certain
works with-
out consent
of board of
trade.

17. Where the company is authorized by the special act to construct a railway skirting a public navigable tidal river or channel, the company shall not make any deviation of the railway from the continuous centre line thereof marked on the plan deposited by them at the board of trade, even within the limits of deviation shown on that plan, in such manner as to diminish the navigable space, without the previous consent of the board of trade, or otherwise than in such manner as is expressly authorized by the board of trade.

If any deviation is made in contravention of the present section, the board of trade may abate and remove the work in the construction whereof the deviation is made, or any part thereof, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the

company to the crown, and be recoverable accordingly with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

26 & 27 VICT.
CAP. 92.

18. If a work constructed by the company on, in, over, through, or across tidal lands or a tidal water is abandoned, or suffered to fall into decay, the board of trade may abate and remove the work, or any part of it, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

Abatement
of work
abandoned
or decayed.

19. If at any time the board of trade deems it expedient, for the purposes of the special act or of this part of this act, to order a survey and examination of a work constructed by the company on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the company shall defray the expense of the survey and examination; and the amount thereof shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

Survey of
works by
board of
trade.

PART II.—EXTENSION OF TIME.

20. Where a railway is authorized to be constructed by a special act passed either before or after the passing of this act, and the time limited by the special act for the exercise of powers of compulsory purchase of lands, or of powers for construction of the railway and works, is extended by a special act hereafter passed and incorporating this part of this act,—then and in every such case the justices, arbitrators, umpires, or juries, as the case may be, who award or assess the compensation to be made by the company to the owners or occupiers of, or other persons interested in, lands taken or used for the purposes of the railway and works, or injuriously affected by the construction thereof, shall, in estimating the amount of such compensation, have regard to, and assess compensation for, the additional damage (if any) sustained by those owners, occupiers, or other persons, by reason of the extension of time.

Parties ag-
grieved by
extension of
time may
have com-
pensation for
additional
damage.

21. The extension of time shall not affect any contract entered into or notice given by the company before the passing of the special act granting the extension, for purchasing, taking, or using any lands which the company was entitled to purchase, take, or use; but every such contract and notice shall be construed and take

Existing
contracts
and notices
to take lands
not to be
affected.

26 & 27 VICT. C. 92. vii.

26 & 27 VICT.
CAP. 92.

effect, and the same proceedings may be had thereunder, and all parties thereto shall be entitled to the same rights and remedies in respect thereof, at law and in equity, as if the extension had not been granted.

PART III.—WORKING AGREEMENTS.

Restrictions
on agree-
ments be-
tween com-
panies.

[Powers of
Board of
Trade under
Part III.
transferred
to railway
commis-
sioners by
36 & 37
Vict. c. 48,
s. 10.]

22. Where two or more companies are authorized by a special act hereafter passed and incorporating this part of this act, to agree among themselves with respect to all or any of the following purposes; namely,—

The maintenance and management of the railways of the companies respectively, or any one or more of them, or any part thereof respectively, and of the works connected therewith respectively, or any of them;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts and revenues levied, taken, or arising in respect of traffic;—

then and in every such case the authority so to agree, or the agreement when entered into, shall not in any manner affect any of the tolls, rates or charges which the companies parties thereto are from time to time respectively authorized to demand and receive from any person or from any other company; but all such persons and companies shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of the several companies parties to the agreement, on the same terms and conditions, and on payment of the same tolls, rates, and charges as they would be if such authority had not been given, or the agreement had not been entered into.

Sanction of
shareholders
to agree-
ments.

23. The agreement shall not, save so far as its terms and conditions are authorized by "The Railways Clauses Consolidation Act, 1845," or by "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, or by any other general statute or law from time to time in force with respect to the companies parties to the agreement, have any operation unless and until it is sanctioned by such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the several companies parties thereto, present (personally or by proxy) at a general meeting of each company specially convened for the purpose (in manner hereinafter mentioned), as is prescribed in the special act, and if no proportion is prescribed, then by three-fifths of such votes.

Every such meeting shall be convened by circular addressed to each such shareholder and stockholder, and
26 & 27 VICT. C. 92. viii.

served in the manner prescribed by "The Companies ^{26 & 27 VICT. C. 92.} Clauses Consolidation Act, 1845," or "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may require, with respect to notices requiring to be ^{8 VICT. C. 16, 8 VICT. C. 17.} served by the company upon the shareholders, and also by advertisement inserted once at least in each of two consecutive weeks in some newspaper published or circulating in the county prescribed in the special act; and if no county is prescribed, then in the county in which the head office of the company is situate, the last of such advertisements to be published not less than seven days before the meeting.

24. Before the companies enter into the agreement, notice of their intention to do so shall be given by them or one of them, in a form to be approved by the board of trade, inserted once at least in each of three successive weeks in some newspaper published or circulating in the county prescribed in the special act, and if no county is prescribed, then in the county or one of the counties in which each railway to the maintenance, management, use, or working whereof the proposed agreement relates, or some portion of that railway, is situate; and the notice shall set forth within what time and in what manner any company or person aggrieved by the proposed agreement, and desiring to object thereto, may bring the objection before the board of trade. ^{Public notice of intention to enter into such agreement.}

25. The agreement shall not have any operation until it is approved by the board of trade; and the board of trade shall not approve the agreement without being satisfied of its having received such sanction of meetings of the respective companies as aforesaid. ^{Approval of board of trade.}

26. The companies parties to the agreement may, in accordance therewith and for the purposes thereof, appoint a joint committee, composed of such number of the directors of each company as the companies think proper, and from time to time may vary and renew the joint committee as occasion requires, and may regulate the proceedings of the joint committee, and may delegate to the joint committee all such of the powers of the companies as the companies think necessary for carrying into effect the purposes of the agreement; and the joint committee shall have and may exercise the powers so from time to time delegated to them in like manner as the same powers might be had and exercised by the companies respectively or their respective directors. ^{Joint committee for purposes of agreement.}

27. At the expiration of the first or any subsequent period of ten years after the making of the agreement, the board of trade may, if they are of opinion that the interests of the public are prejudicially affected thereby, ^{Agreement between companies may be modified by board of trade.} 26 & 27 VICT. C. 92. ix.

26 & 27 VICT.
CAP. 92.

cause the same to be revised; and the board of trade may require the companies parties thereto to publish such notices of any intended revision of the agreement as the board of trade may direct; and the board of trade may modify the agreement in such manner as may seem expedient for the protection of the interests of the public, and may declare the modification to be part of the agreement, and the same shall be read and take effect accordingly.

Working
agreements
between a
company
and an in-
dividual.

28. Where a company is authorized by a special act hereafter passed, and incorporating this part of this act, to agree with a person being the proprietor of a railway with respect to all or any of the purposes specified in this part of this act, then and in every such case the provisions of this part of this act shall apply, mutatis mutandis, to the company in relation to such authority and to the agreement entered into by virtue thereof.

Alteration of
agreement.

29. For the purposes of this part of this act, any alteration of an agreement by the parties thereto shall be deemed an agreement.

PART IV.—STEAM VESSELS.

Provision for
securing
equality of
treatment.

30. Where a railway company incorporated either before or after the passing of this act is authorized by a special act hereafter passed, and incorporating this part of this act to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels, then and in every such case tolls shall be at all times charged to all persons equally, and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof; or in favour of or against any person using the railway in consequence of his having used or being about to use or his not having used or not being about to use the steam vessels; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

31. The provisions of "The Railway and Canal Traffic Act, 1854," so far as the same are applicable, shall extend to the steam vessels and to the traffic carried on thereby.

26 & 27 VICT
CAP. 92.

Application
of 17 & 18
VICT. c. 31.

32. The company may from time to time make bye-laws in relation to passengers, animals and goods conveyed in or upon the steam vessels, and as to the embarkation and disembarkation thereof respectively, and may enforce the observance of the same by penalties in the same manner as they may with respect to passengers, animals and goods conveyed upon their railway; such byelaws to be sanctioned and authenticated in the same manner as is required by any special or other act with respect to byelaws relating to the company's railway, and being published by being painted on boards, or printed on paper and pasted on boards, and hung up or affixed and continued on some conspicuous part of every steam vessel and landing-place of the company; and such byelaws, and all penalties in respect of the breach thereof, shall be enforced and recovered in the same manner as is provided with respect to byelaws relating to the company's railway, and to penalties in respect of the breach thereof.

Company
empowered
to make
bye-laws for
regulating
steam
vessels.

33. All tolls and charges for the steam vessels due and payable to the company on any account whatsoever, and all costs, damages, and expenses by the special act directed to be paid in respect of the steam vessels, may be levied by distress; and in England or Ireland any justice, and in Scotland the sheriff, may, on application by or on behalf of the company, issue his warrant accordingly.

Recovery of
money by
distress.

The justice or sheriff who issues the warrant of distress may order that the costs of the proceedings for the recovery of the toll or sum shall be paid by the person liable to pay the toll or sum, and the cost shall be ascertained by the justice or sheriff, and shall be included in the warrant of distress for the recovery of the toll or sum.

34. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the company for any of the purposes of this part of this act, or of the provisions of the special act with respect to the steam vessels, and may be stated either in the body of the warrant or notice, or in a schedule thereto.

Several
names in
one warrant.

35. In every seventh year after the passing of the special act, reckoned from the first day of January next after its passing, the board of trade, if they are of opinion that the interests of the public are prejudicially affected by the exercise of the powers of the company relative to steam vessels, may give to the company notice in writing

Provision
for cesser of
powers as to
steam ves-
sels, on
report from
board of
trade.

26 & 27 VICT.
CAP. 92.

[Powers of
Board of
Trade
transferred
to railway
commis-
sioners by
36 & 37
VICT., c. 48,
s. 10.]

thereof, and of the reasons on which that opinion is founded; and if the company does not before the beginning of the then next session of parliament make provision to the satisfaction of the board of trade for protection of the interests of the public, or if the injury done to the interests of the public is in the opinion of the board of trade incapable of being remedied by the company, then the board of trade, at the beginning of the session of parliament then next following, shall report to both houses of parliament such their opinion, and the reasons on which that opinion is founded, and at the expiration of twelve calendar months after the presentation to the houses of parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless parliament in the meantime otherwise provides, cease to be exercised.

PART V.—AMALGAMATION.

Application
of Part V.

36. This part of this act shall apply where two or more railway companies, respectively incorporated either before or after the passing of this act, are amalgamated by a special act hereafter passed and incorporating this part of this act.

Definition of
cases of amalga-
mation.

37. For the purposes of this part of this act, companies shall be deemed amalgamated by a special act in either of the following cases:

- (1.) Where by the special act two or more companies are dissolved and the members thereof respectively are united into and incorporated as a new company:
- (2.) Where by the special act a company or companies is or are dissolved, and the undertaking or undertakings of the dissolved company or companies is or are transferred to another existing company, with or without a change in the name of that company.

And in this part of this act such special act is referred to as the amalgamating act; the company incorporated or continued by or under the amalgamating act is referred to as the amalgamated company; and the time prescribed in the amalgamating act for the amalgamation taking effect, and if no time is prescribed, then the time of the passing of the amalgamating act is referred to as the time of amalgamation.

Undertak-
ings of dis-
solved com-
panies
vested in
amalgama-
ted com-
pany.

38. In every case of amalgamation, the undertaking, railways, harbours, navigations, ferries, wharfs, canals, works, real and personal property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the rights and interests of the dissolved company

shall, subject to the contracts, obligations, debts, and liabilities of that company, become at the time of amalgamation, and by virtue of the amalgamating act, vested in the amalgamated company, and may and shall be held, used, exercised and enjoyed by the amalgamated company in the same manner and to the same extent as the same respectively at the time of amalgamation are, or if the amalgamating act were not passed might be held, used, exercised, and enjoyed by the dissolved company.

26 & 27 VICT.
CAP. 92.

39. The special acts relating to or affecting the dissolved company or their undertaking in force at the passing of the amalgamating act, shall, except so far as they are thereby expressed to be varied or repealed, remain in full force; and all rights and powers thereby conferred on and vested in the dissolved company in relation to their undertaking may be enjoyed and exercised by the amalgamated company in relation to the dissolved undertaking; and all matters to be done, continued, or completed, or which but for the amalgamation would, might, or could be done, continued, or completed by the dissolved company, or their directors, officers, or servants, under or by virtue of those acts, shall or may be done, continued or completed by the amalgamated company and their directors, officers, and servants, as the case may be; and every special act, so far as it relates to or affects the dissolved company or their undertaking, shall be read and construed as if the name of the amalgamated company had been used therein in relation to that undertaking instead of the name of the dissolved company.

Acts relating to dissolved companies to apply to amalgamated company.

40. Except as may be otherwise provided in the special act, all debts and money due from or to the dissolved company, or any persons on their behalf, shall be payable and paid by or to the amalgamated company; and all tolls, rates, duties and money due or payable by virtue of any act relating to the dissolved company, from or to that company, shall be due and payable from or to the amalgamated company, and shall be recoverable from or by the amalgamated company by the same ways and means, and subject to the same conditions as the same would or might have been recoverable from or by the dissolved company if the amalgamating act had not been passed.

Saving debts and claims of dissolved companies.

41. All deeds, conveyances, grants, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, contracts and securities which before the amalgamation have been executed, made, or entered into by, with, to or in relation to the dissolved company, or the directors thereof, and which are in force at the time of amalgamation, and all obligations and liabilities which

Saving conveyances, contracts, &c.

26 & 27 VICT.
CAP. 92.

before the amalgamation have been incurred by or to, or which but for the amalgamation might or would have arisen in relation to the dissolved company or the directors thereof, shall be as valid and of as full force and effect in favour of, against or in relation to the amalgamated company as if the same had been executed, made, or entered into by, with, or to, or in relation to, or had been incurred by or to or had arisen in relation to the amalgamated company by name.

Causes and
rights of
action
reserved.

42. All causes and rights of action or suit accrued before the time of amalgamation, and then in any manner enforceable by, for or against the dissolved company, shall be and remain as good, valid, and effectual for or against the amalgamated company as they would or might have been for or against the dissolved company affected thereby, if the amalgamating act had not been passed.

Actions not
to abate.

43. Nothing in the amalgamating act or in this part of this act shall cause the abatement, discontinuance, or determination of or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against the dissolved company, either solely or jointly with any other company or with any person, before the time of amalgamation, and then pending; but the same may be continued, prosecuted, or enforced by or against the amalgamated company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of any special act relating to the dissolved company before the amalgamation may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered in like manner in all respects as if the amalgamating act had not been passed,—the amalgamated company being in respect of all such matters considered as identical with the dissolved company.

Saving sub-
missions and
awards re-
lating to
dissolved
companies.

44. No submission to arbitration of any matter in dispute between the dissolved company and any other company or any person, under which any reference is pending and incomplete at the time of amalgamation, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in the amalgamating act or in this part of this act contained; but every such submission and award shall be as valid and effectual for or against the amalgamated company as it would have been for or against the dissolved company.

Unexecuted
works of
dissolved
companies
may be
completed.

45. All works which the dissolved company is at the time of amalgamation authorized or bound to execute and complete, and which are not then executed or completed, may or shall (as the case may require) be executed

or completed by the amalgamated company; and for that purpose the amalgamated company shall have and be subject to all the powers, rights, and conditions which were conferred or imposed upon the dissolved company, and which but for the passing of the amalgamating act might have been exercised by or enforced against the dissolved company.

26 & 27 VICT.
CAP. 92.

46. Where the dissolved company has under any special act entered into any contract for the purchase of or taken or used any lands, which at the time of amalgamation have not been effectually conveyed to the dissolved company, or the purchase money in respect of which has not been duly paid by the dissolved company, then and in every such case the contract, if in force at the time of amalgamation, shall thereafter be completed by, and such lands shall be conveyed to the amalgamated company, or as the amalgamated company directs, and the purchase money shall be paid and applied pursuant to the special acts relating to the dissolved company; and those acts shall, in relation to the completion of the contract and the purchase and conveyance of the lands, and the payment and application of the purchase money in respect thereof, be read and construed as if the amalgamated company were the company named in the acts and contract.

Contracts
for land en-
tered into by
dissolved
companies
to be exe-
cuted.

47. Where any money has, before the time of amalgamation, been paid by the dissolved company, or is thereafter paid by the amalgamated company under any special act relating to the dissolved company, into the bank of England, or into one of the incorporated or chartered banks in Scotland, or into the bank of Ireland, or to any trustee or trustees, on account of the purchase of any lands or any interest therein, or for any compensation or satisfaction, or on any other account, such money, or the stocks, funds, or securities in or upon which the same then is or thereafter may be invested by order of any court, or otherwise, and the interest, dividends, and annual produce thereof shall be applied and disposed of pursuant to such special act; and that and every other act shall, in relation to such money, stocks, funds, or securities, or the interest, dividends, or annual produce thereof, be read and construed as if the amalgamated company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends, or annual produce.

Application
of money
paid into
bank or to
trustees.

48. All officers and persons who, at the time of amalgamation, have in their possession or under their control any books, documents, papers or effects belonging to the dissolved company, or to which the dissolved company would but for such dissolution have been entitled, shall

Officers of
dissolved
companies
to be ac-
countable
for books,
&c.

26 & 27 VICT.
CAP. 92.

be liable to account for and deliver up the same to the amalgamated company, or to such persons as the amalgamated company may appoint to receive the same, in the same manner, and subject to the same consequences on refusal or neglect, as if such officers and persons had been appointed by and become possessed of such books, documents, papers, or effects for the amalgamated company.

Officers of dissolved companies to be officers of amalgamated company.

49. All clerks, officers, and servants who at the time of amalgamation are in the employment of the dissolved company shall thereupon become clerks, officers, or servants, as the case may be, of the amalgamated company, with the same rights, and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers, or servants of the dissolved company, and shall so continue unless and until they respectively are duly removed from such employment by the amalgamated company, or until the terms of their employment are duly altered by the amalgamated company.

Books, &c., to be evidence.

50. All books and documents which would have been evidence in respect of any matter for or against the dissolved company, shall be admitted as evidence in respect of the same or the like matter for or against the amalgamated company.

Resolutions of dissolved companies to remain in force.

51. All resolutions of any general meeting or board of directors of the dissolved company, or of any duly constituted and authorized committee thereof, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution, continue to be operative, and shall apply to the amalgamated company, and to the directors, officers, and servants of the amalgamated company, until duly revoked or altered by the amalgamated company or under their authority.

Payment of calls.

52. All calls made by the dissolved company, and not paid at the time of amalgamation, shall be payable to and may be enforced by the amalgamated company, as if such calls had been made by the amalgamated company.

Registers, books, and certificates relating to dissolved companies to subsist until replaced.

53. All registers of shares, stock, mortgages, and bonds of the dissolved company, and all registers of transfers thereof respectively, and all shareholders and stockholders address books, and all certificates of shares or stock of and in the dissolved company, which are valid and subsisting at the time of amalgamation, shall continue to be valid and subsisting, and shall have the same operation and effect as before the dissolution, unless and until new or altered registers, books, and certificates respectively are substituted in their stead; and all

transfers, sales, or dispositions of stock or shares made before the dissolution and not then completed shall have the same operation and effect as if made after the dissolution.

26 & 27 VICT.
CAP. 92.

54. All the byelaws, rules, and regulations of the dissolved company relating to the management, use, or control of their undertaking shall, notwithstanding the dissolution, continue to be in force and applicable to and in respect of the undertaking, and shall and may be enforced by and available to the amalgamated company in their own name, as well for the recovery of penalties as for all other purposes, as if the same respectively had been originally made by the amalgamated company, until the expiration of twelve months after the time of amalgamation, or until other byelaws, rules, and regulations are duly made by the amalgamated company in their stead, whichever first happens.

Byelaws to
remain in
force.

55. Notwithstanding the dissolution of the dissolved company, and the amalgamation, everything before the time of amalgamation done, suffered, and confirmed respectively, under or by virtue of any special act relating to the dissolved company, shall be as valid as if the amalgamating act had not been passed; and the dissolution and amalgamation, and the amalgamating act, and this part of this act respectively, shall accordingly be subject and without prejudice to everything so done, suffered, and confirmed respectively, and to all rights, liabilities, claims and demands, present or future, which if the dissolution and amalgamation had not taken place, and the amalgamating act had not been passed, would be incident to or consequent on anything so done, suffered, and confirmed respectively; and with respect to all things so done, suffered, and confirmed respectively, and to all such rights, liabilities, claims, and demands, the amalgamated company shall to all intents represent the dissolved company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this part of this act, or by any provision of the amalgamating act that does not expressly refer to this present provision, and expressly restrict the operation thereof.

General
saving of
rights and
claims.

PIER AND HARBOUR ORDERS CONFIRMATION, 1863.

26 & 27 Vict. Cap. 104. An Act for confirming certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act, 1861, relating to Blackpool, Deal and Walmer, Exmouth, Rosehearty, Ilfracombe, Instow, Bangor, Chatham, Bray, Dartmouth, and Nairn, (so far as relates to Railways.)

[28th July, 1863.]

10. DARTMOUTH. Provisional order of the Board of Trade for the improvement, maintenance, and regulation of the harbour of Dartmouth, in the county of Devon.

2. The appointment of the several commissioners shall be regulated as follows:

(1.) The board of trade on, or at any time after, the passing of an act confirming this order, may, if they think fit, appoint three persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of any one of those three commissioners, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties:

Appoint-
ment of the
several com-
missioners.

By Board of
Trade.

(2.) The mayor, aldermen, and burgesses of the borough of Dartmouth, acting by the town council of the borough, shall, as soon as may be after the passing of an act confirming this order, appoint two persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of those two commissioners, shall appoint another person to fill the vacancy, and so toties quoties:

By corpora-
tion of Dart-
mouth.


(3.) The Dartmouth and Torbay railway company shall, as soon as may be after the passing of an act confirming this order, appoint two persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of those two commissioners, shall appoint another person to fill the vacancy, and so toties quoties:

By Dart-
mouth and
Torbay rail-
way com-
pany.

(4.) The following three persons are hereby nominated and appointed to be commissioners, — namely, Charles Seale Hayne, William Froude, and George Knight, and whenever a vacancy is caused by

Special com-
missioners.

26 & 27 VICT.
CAP. 104.



By owners
and rate
payers.

Power to
transfer, or
lease har-
bour to rail-
way com-
pany.

death, resignation, or otherwise, in the office of any one of those three commissioners, the commissioners shall, by a special order, appoint another person to fill the vacancy, subject to the approval of the board of trade, and so toties quoties :

- (6.) The owners of property and other persons rated to the relief of the poor for the parish of Kingswear, in the county of Devon, upon a rateable value of not less than twenty pounds a year, shall, from time to time, elect one person to be a commissioner.

13. The commissioners may at any time by deed under their common seal transfer or lease to the Dartmouth and Torbay railway company, their lessees or assigns, if and when the company, their lessees or assigns, are lawfully empowered to take a transfer or lease under the present provision, all or any part of the works herein-before specified, and the right to receive all or any part of the rates specified in schedule (A) hereto, and all or any other of the rights or powers by virtue of this order vested in the commissioners in relation to the works herein-before specified, or any of them ; but so that any such deed of transfer or lease shall not have any effect unless it is made with the approval of the board of trade, testified in writing signed by a secretary or assistant secretary of the board.

TELEGRAPHS, 1863.

26 & 27 Vict. Cap. 112. An Act to regulate the Exercise of Powers under Special Acts for the Construction and Maintenance of Telegraphs (so far as relates to Railways).

[Incorporated with 31 & 32 Vict., c. 110.]

[28th July, 1863.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

[Amended by 29 & 30 Vict. c. 8.]

3. In this act (inter alia)—

The term "telegraph" means a wire or wires used for the purpose of telegraphic communication, with any casing, coating, tube, or pipe inclosing the same, and any apparatus connected therewith for the purpose of telegraphic communication:

"Telegraph."

The term "post" means a post, pole, standard, stay, strut, or other aboveground contrivance for carrying, suspending, or supporting a telegraph:

"Post."

The term "work" includes telegraphs and posts:

"Work."

The term "railway" includes any station, work, or building connected with a railway.

"Railway."

6. Subject to the restrictions and provisions herein-after contained, the company may execute works as follows:

General description of works which a telegraph company may execute, subject to the restrictions of this act.

(1.) They may place and maintain a telegraph under any street or public road, and may alter or remove the same:

(2.) They may place and maintain a telegraph over, along, or across any street or public road, and place and maintain posts in or upon any street or public road, and may alter or remove the same:

(3.) They may, for the purposes aforesaid, open or break up any street or public road, and alter the position thereunder of any pipe (not being a main) for the supply of water or gas:

(4.) They may place and maintain a telegraph and posts under, in, upon, over, along, or across any land or building, or any railway or canal, or any estuary or branch of the sea, or the shore or bed of any tidal water, and may alter or remove the same:

As to railways.

Provided always, that the company shall not be deemed to acquire any right other than that of user only in the soil of any street or public road under, in, upon, over, along, or across which they place any work

26 & 27 Vict. c. 112. i.

26 & 27 VICT.
CAP. 112.

For works
affecting
railways,
canals, &c.
consent of
directors, &c.
requisite.

[Amended
by 41 & 42
Vict. c. 76
s. 3.]

32. The company shall not place any work under, in, upon, over, along, or across any railway or canal, except with the consent of the proprietors or lessees, or of the directors or persons having the control thereof. But this provision shall not restrict the company from placing any work (subject and according to the other provisions of this act) under, in, upon, over, along, or across any street or public road, although such street or public road may cross or be crossed by a railway or canal, so that such work do not damage the railway or canal, or interfere with the use, alteration, or improvement thereof.

COMPANIES CLAUSES, 1863.

26 & 27 Vict. Cap. 118. An Act for consolidating in one Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a public Nature.

[28th July, 1863.]

WHEREAS The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, were passed in order to comprise in one general act such provisions relating to the constitution and management of joint stock companies incorporated for the purpose of carrying on undertakings of a public nature in England or Ireland, or in Scotland, respectively, as were at the times of the passing of those acts usually introduced into acts of parliament relating to such companies : 8 & 9 Vict.
c. 16 & 17.

And whereas sundry provisions of the like nature, but not comprised in the said general acts respectively, are now frequently introduced into acts of parliament relating to such companies, and it is expedient to comprise such last-mentioned provisions also in one general act, such act to be applicable to England or Ireland, or to Scotland, as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in the acts relating to such undertakings, as for ensuring greater uniformity in the provisions themselves :

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as The Companies Clauses Short title.
Act, 1863.

2. This act shall be deemed to be divided into four Division of
act into
parts.
parts, as follows :

- Part I. relating to cancellation and surrender of shares ;
- Part II. relating to additional capital ;
- Part III. relating to debenture stock ;
- Part IV. relating to change of name.

PART I.—CANCELLATION AND SURRENDER OF SHARES.

3. This part of this act shall apply to every company Application
of Part I.
26 & 27 VICT. c. 118. i.

26 & 27 VICT.
CAP. 118.

Power to
company
to cancel
forfeited
shares.

Evidence for
cancellation
of forfeited
shares.

Payment of
calls in ar-
rear not-
withstand-
ing cancel-
lation.

Value of
forfeited
shares to be
deducted
from amount
due in res-
pect thereof.

incorporated either before or after the passing of this act which obtains a special act incorporating this part of this act.

4. Where any share of the capital of the company is after the passing of this act declared forfeited under and in pursuance of the provisions with respect to the forfeiture of shares for nonpayment of calls contained in The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, and the forfeiture is confirmed by a meeting in accordance with the same provisions respectively, and notice of the forfeiture has been given,—then and in every such case, if the directors of the company are unable to sell the share for a sum equal to the arrears of calls and interest and expenses due in respect thereof, the company at any general meeting held not less than two months after such notice is given may, in case payment of the arrears of calls, interest, and expenses due in respect thereof is not made by the registered holder of the share before the meeting is held, resolve that the share instead of being sold shall be cancelled, and the share shall thereupon be cancelled accordingly.

5. A declaration in writing made by some credible person, in England or Ireland before a justice, and in Scotland before any sheriff or justice, stating that a sum of money sufficient to pay the arrears of calls, interest, and expenses due in respect of the share, could not at the time of the cancellation of the share be obtained for the same upon the stock exchange prescribed in the special act, and if no stock exchange is prescribed then upon the stock exchange, as to England, of the city of London, and as to Scotland of the city of Edinburgh, and as to Ireland of the city of Dublin, shall be sufficient evidence of the fact so declared.

6. Where it is so resolved that any share shall be cancelled, the holder thereof shall from and after the passing of the resolution be precluded from all right and interest therein and in respect thereof; but the cancellation shall not affect the liability of the last registered holder of the share to pay to the company all arrears of calls, interest, and expenses due in respect of the share at the time of the cancellation, or the power of the company to enforce payment thereof by action or otherwise.

7. Provided always, That if the company enforces the payment of the arrears of calls, interest, and expenses under the last preceding provision, the value of the share at the time of the cancellation thereof shall be deducted from the amount so then due; provided also that if payment of all arrears of calls, interest, and expenses is made

before such meeting as aforesaid is held the share shall revert to the person to whom it belonged at the time of forfeiture, and shall be re-entered on the company's register accordingly.

26 & 27 VICT.
CAP. 118.

8. Where any share is declared forfeited, or where any sum payable on any share remains unpaid, the company, with the consent in writing of the registered holder of the share, and with the sanction of a general meeting, may resolve that the share shall be cancelled, and immediately thereupon the share shall be cancelled, and all liabilities and rights with respect to the share shall thereupon be absolutely extinguished.

Company may cancel forfeited shares with consent of holders.

9. The company may from time to time accept, on such terms as they think fit, surrenders of any shares which have not been fully paid up.

As to surrender of shares.

10. The company shall not pay or refund to any shareholder any sum of money for or in respect of the cancellation or surrender of any share.

No money to be paid for cancellation or surrender.

11. The company may from time to time, in lieu of any shares that have been cancelled or surrendered, issue new shares of such amounts as will allow the same to be conveniently apportioned or disposed of according to the resolution of any ordinary or extraordinary meeting of the company, and may from time to time fix the amounts and times of payment of the calls on any such new shares, and dispose thereof on such terms and conditions as may be so resolved upon: Provided, that the aggregate nominal amount of the new shares shall not exceed the aggregate nominal amount of the shares in lieu of which the new shares are issued, after deducting the amount actually paid up in respect of the shares cancelled or surrendered.

Power to create shares in lieu of cancelled, forfeited, &c. shares.

PART II.—ADDITIONAL CAPITAL.

New ordinary shares or stock.

12. Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to raise any additional sum or sums by the issue of new ordinary shares, or by the issue of new ordinary stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three fifths of such votes, may, for the purpose of raising the additional

Regulations as to creation and issue of ordinary shares or new ordinary stock.

26 & 27 VICT. c. 118. iii.

26 & 27 VICT. CAP. 118. sum or sums, from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new ordinary shares, of such nominal amount, and subject to the payment of calls of such amounts and at such times, as the company thinks fit, or such new ordinary stock as the company thinks fit.

Preference shares or stock.

Regulations as to creation and issue of new preference shares or new preference stock.

13. Where any such company is authorized by any special act hereafter passed and incorporating this part of this act to raise any additional sum or sums by the issue of new preference shares, or by the issue of new preference stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the like sanction as aforesaid, may for the purpose of raising such additional sum or sums from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new shares or new stock, either ordinary or preference, and either of one class and with like privileges, or of several classes and with different privileges, and of the same or different amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, deferred, or other dividend or interest, not exceeding the rate prescribed in the special act, and if no rate is prescribed then not exceeding the rate of five pounds per centum per annum, and subject (as to any such new shares) to the payment of calls of such amounts and at such times, as the company from time to time thinks fit:

Saving rights of preference shareholders.

Provided always, that any preference assigned to any shares or stock so issued under the special act shall not affect any guarantee, or any preference or priority in the payment of dividend or interest, on any shares or stock, that may have been granted by the company under or confirmed by any previous act, or that may be otherwise lawfully subsisting.

Preference shares to be entitled to dividends only out of the profits of each year.

14. The preference shares or preference stock so issued shall be entitled to the preferential dividend or interest assigned thereto, out of the profits of each year, in priority to the ordinary shares and ordinary stock of the company; but if in any year ending on the day prescribed in the special act, and if no day is prescribed, then on the thirty-first day of December, there are not profits available for the payment of the full amount of preferential dividend or interest for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company.

15. The terms and conditions to which any preference share or preference stock is subject shall be clearly stated on the certificate of that preference share or portion of preference stock.

General provisions as to new shares or stock.

16. If, after having created new shares or new stock, the company determines not to issue the whole of the new shares or new stock, they may cancel the unissued new shares or new stock.

17. If, at the time of the issue of new shares or new stock, the ordinary shares or ordinary stock of the company are or is at a premium, then, unless the company before the issue of the new shares or new stock otherwise determines, the new shares or new stock then issued shall be of such amount as will conveniently allow the same to be apportioned among the then holders of the ordinary stock and ordinary shares, respectively, in proportion, as nearly as conveniently may be, to the ordinary shares and ordinary stock held by them respectively, and shall be offered to them at par in that proportion: Provided, that it shall not be obligatory on the company so to apportion or offer any new shares or new stock unless the amount of every new share or portion of new stock to be so offered would if so apportioned be at least the sum prescribed in the special act, and if no sum is prescribed then at least ten pounds.

18. The offer of new shares or new stock shall be made by letter under the hand of the treasurer or secretary of the company given to every such shareholder or stockholder as aforesaid, or sent by post addressed to him according to his address in the shareholders or stockholders address book, or left for him at his usual or then last known place of abode in England, Scotland, or Ireland (as the case may require); and every such offer made by letter sent by post shall be considered as made on the day on which the letter in due course of delivery ought to be delivered at the place to which it is addressed.

19. The new shares or portions of new stock so offered shall vest in and belong to the shareholders or stockholders who accept the same or their nominees.

20. If any shareholder or stockholder fails for the time prescribed in the special act, and if no time is prescribed then for one month, after the offer to him of new shares or new stock, to signify his acceptance of the same or any part thereof, then and in every such case at the expiration of that period he shall be deemed to have declined the offer of such new shares or new stock or such part thereof as aforesaid, and the same may be disposed of by the company as herein-after provided:

26 & 27 VICT.
CAP. 118.

Terms, &c.
to be stated
on certifi-
cates.

Unissued
shares and
stock may
be cancelled.

If ordinary
stock or
shares at a
premium,
new shares
or stock to
be offered to
existing
ordinary
share-
holders.

Offer to be
made by
letter.

New shares
or stock to
vest on ac-
ceptance.

As to dis-
posal of new
shares or
stock to
others.

26 & 27 VICT.
CAP. 118.

Power to
enlarge time
for accept-
ing new
shares or
stock.

General
power to
dispose of
unappropri-
ated new
shares and
stock.

[Amended
by 30 & 31
VICT. c. 127,
s. 27; 32 &
33 VICT.
c. 48, s. 5.]

Regulations
as to crea-
tion and is-
sue of de-
benture
stock.

Provided, that where a shareholder or stockholder, from absence abroad or other cause satisfactory to the directors of the company, omits to signify within the time aforesaid his acceptance of the new shares or new stock offered to him, the directors, if they think proper, may permit him to accept the same, notwithstanding that such time has elapsed.

21. Subject to the foregoing provisions, the company may from time to time dispose of new shares and new stock at such times, to such persons, on such terms and conditions, and in such manner, as the directors think advantageous to the company, *but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof.*

PART III.—DEBENTURE STOCK.

22. Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to create and issue debenture stock,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three-fifths of such votes, may from time to time raise all or any part of the money which for the time being they have raised, or are authorized to raise, on mortgage or bond, by the creation and issue, at such times, in such amounts and manner, on such terms, subject to such conditions, and with such rights and privileges, as the company thinks fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the company on mortgage or bond, or which they may from time to time have power to raise on mortgage or bond, and may attach to the stock so created such fixed and perpetual preferential interest *not exceeding the rate prescribed in the special act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum*, payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the debenture stock is issued, or otherwise, as the company thinks fit.

23. Debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company, prior

[Amended
by 30 & 31
VICT. c. 127,
ss. 24, 25;
32 & 33 VICT.
c. 48, s. 1.]
[Repealed
by 38 & 39
VICT. c. 68,
s. 1.]

Debenture
stock to be

to all shares or stock of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate.

26 & 27 VICT.
CAP. 118.

a prior
charge.

24. The interest on debenture stock shall have priority of payment over all dividends or interest on any shares or stock of the company, whether ordinary or preference or guaranteed, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock; but the holders of debenture stock shall not, as among themselves, be entitled to any preference or priority.

Interest on
debenture
stock to be
a primary
charge.

25. If within thirty days after the interest on any such debenture stock is payable the same is not paid, any one or more of the holders of the debenture stock holding, individually or collectively, the sum in nominal amount thereof prescribed in the special act, and if no sum is prescribed, then a sum equal to one tenth of the aggregate amount which the company is for the time being authorized to raise by mortgage, by bond, and by debenture stock, or the sum of ten thousand pounds, whichever of the two last-mentioned sums is the smaller sum, may (without prejudice to the right to sue in any court of competent jurisdiction for the interest in arrear) require the appointment in England or Ireland of a receiver, and in Scotland of a judicial factor.

Payment of
arrears may
be enforced
by appoint-
ment of re-
ceiver or
judicial
factor.

26. Every such application for a receiver shall be made to two justices, and every such application for a judicial factor shall be made to the court of session; and on any such application the justices or court (as the case may be), by order in writing, after hearing the parties, may appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of the interest, until all the arrears of interest then due on the debenture stock, with all costs, including the charges of receiving the tolls or sums, are fully paid; and upon such appointment being made all such tolls or sums shall be paid to and received by the person so appointed; and all money so received shall be deemed so much money received by or to the use of the several persons interested in the same, according to their several priorities.

Mode of ap-
pointing
receiver or
judicial
factor.

The receiver or judicial factor shall distribute rateably and without priority, among all the proprietors of debenture stock to whom interest is in arrear, the money which so comes to his hands, after applying a sufficient part thereof in or towards satisfaction of the interest on the mortgages and bonds of the company.

As soon as the full amount of interest and costs has
26 & 27 VICT. c. 118. vii.

26 & 27 VICT.
CAP. 118.

been so received, the power of the receiver or judicial factor shall cease, and he shall be bound to account to the company for his acts or intromissions or the sums received by him, and to pay over to the company any balance that may be in his hands.

Arrears may
be recovered
by action or
suit.

27. If the interest on debenture stock is in arrear for thirty days next after any of the respective days whereon the same is payable, the holder for the time being thereof may (without prejudice to his power to apply for the appointment of a receiver or judicial factor) recover the arrears with costs by action or suit against the company in any court of competent jurisdiction.

Debenture
stock to be
registered.

28. The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall be accessible for inspection and perusal at all reasonable times to every mortgagee, bondholder, debenture stock holder, shareholder, and stockholder of the company, without the payment of any fee or charge.

Company to
deliver cer-
tificate to
holders of
debenture
stock.

29. The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture stock held by him; and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock.

Mortgages
not affected
by this act.

30. Nothing herein or in the special act authorizing the issue of debenture stock contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond, but the holders of all such mortgages and bonds shall, during the continuance thereof respectively, be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if the special act authorizing the issue of debenture stock had not been passed.

Holders of
debenture
stock not to
vote.

31. Debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification, but shall, in all respects not otherwise by or under this act or the special act provided for, be considered as entitling the holders to the rights and powers of mortgagees of the undertaking other than the right to require repayment of the principal money paid up in respect of the debenture stock.

Application

26 & 27. VICT. C. 118. viii.

32. Money raised by debenture stock shall be applied

exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock.

26 & 27 VICT.
CAP. 118.

of money
raised.

83. Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond, or which they have power so to borrow, has been paid off by debenture stock, or raised thereby, instead of being borrowed on mortgage or bond.

Separate accounts of
debenture
stock.

84. The powers of borrowing and re-borrowing by the company shall, to the extent of the money raised by the issue of debenture stock, be extinguished.

Borrowing
powers ex-
tinguished
to extent of
debenture
stock.

85. The provisions of this part of this act shall be deemed to apply to mortgage preference stock, and to funded debt, as the case may require, in all respects as if mortgage preference stock or funded debt were mentioned throughout this part of this act wherever debenture stock is mentioned therein.

Application
of Part III.
to mortgage-
preference
stock, and
funded debt.

PART IV.—CHANGE OF NAME.

86. Where by any special act hereafter passed and incorporating this part of this act the name of any company incorporated either before or after the passing of this act for the purpose of carrying on any undertaking is changed,—then and in every such case from the passing of the special act the company by their new name shall have and may exercise the powers then vested in the company by their original name; and all acts relating to the company by their original name shall be read and interpreted as if throughout those acts, wherever the original name of the company or any reference to the company by their original name occurs, the new name of the company or a reference to the company by their new name were substituted.

Continuance
of powers.

87. No action, suit, bill, process, writ, indictment, information, or other proceeding, whether civil or criminal, which at or immediately before the passing of the special act is commenced and is then pending,—either at the suit or instance of the company, by their original name, against any other corporation or any person, or at the suit or instance of any other corporation or any person against the company, by their original name,—shall abate, determine, or be otherwise impeached or affected for or by reason of the change of the name of the company; nor shall any notice, tender, requisition, warrant, summons, pleading, civil or criminal writ or other process, record, deed, contract, agreement, writing, or instrument then or thereafter to be made, issued, written,

Actions, &c.
not to abate

26 & 27 VICT.
CAP. 118.

or commenced, be deemed to be vacated, discharged, invalidated, prejudiced, or affected by reason of the company or their undertaking being therein respectively called by the original name of the company or undertaking; and it shall not be necessary in any bill, suit, indictment, information, proceeding, notice, tender, requisition, warrant, summons, pleading, civil or criminal writ, or other process, or in any record, deed, contract, agreement, writing, or other instrument or matter, to aver that the company had been called or known for any period by the original name of the company, or that their undertaking had been called or known within that period by the original name of the undertaking, and that by the special act effecting the change the names of the company and their undertaking were changed, and that after the passing of that special act the company had been called or known by their new name and their undertaking by its new name; but it shall be deemed true, lawful, and sufficient therein to aver the style and describe the company by their new name, and their undertaking by its new name, in the same manner as if the company had been originally incorporated, called, or known by their new name, and as if their undertaking had been originally called or known by its new name.

General
saving of
rights.

38. Notwithstanding the change of the name of the company, everything before the passing of the special act effecting the change done, suffered, or confirmed under or by virtue of any other act shall be as valid as if the special act effecting the change were not passed; and the change of name and last-mentioned special act respectively shall accordingly be subject and without prejudice to everything so done, suffered, or confirmed before the passing of the last-mentioned special act, and to all rights, liabilities, claims, and demands, then present or future, which, if the change of name had not happened and such last-mentioned special act had not been passed, would be incident to or consequent on anything so done, suffered, or confirmed.

Contracts,
&c. pre-
served.

39. Notwithstanding the change of the name of the company, all deeds, instruments, purchases, sales, securities, and contracts before the passing of the special act effecting the change made under any other act, or with reference to the purposes thereof, shall be as effectual to all intents in favour of, against, and with respect to the company as if the name of the company had remained unchanged.

UNION ASSESSMENT COMMITTEE AMENDMENT, 1864.

27 & 28 Vict. Cap. 39. An Act to amend the Union Assessment Committee Act (1862) (so far as relates to Railways). [14th July, 1864.]

WHEREAS it is expedient to amend the Union Assessment Committee Act, 1862, in regard to Appeals against Poor Rates, and to make further provisions for securing correct and uniform valuations of the property liable to be assessed to the relief of the poor: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same:

5. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list, the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

25 & 26 Vict.
c. 103.

Notice of
Assessment
to be given
to railway
companies,
&c.



RAILWAYS (IRELAND), 1864.

27 & 28 Vict. Cap. 71. An Act for amending and extending the Railways, Ireland, Act, 1851, and the Railways, Ireland, Act, 1860.

[25th July, 1864.]

WHEREAS it is expedient that the "Railways Act, Ireland, 1851," and the "Railways Act, Ireland, 1860," should be amended, and the provisions thereof extended, as hereinafter mentioned: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. In all cases where the amount of money which the arbitrator appointed under the provisions of the said acts, or either of them, shall have awarded to be paid by the company to any person in respect of any estate or interest in lands shall exceed the sum of five hundred pounds it shall be lawful for the company, if dissatisfied with such award, upon giving to such person within ten days next after the date of such award notice in writing of their intention to appeal therefrom, to have a traverse entered by the company in the crown book in respect of such award, at the same time and in like manner in all respects as are provided by the aforesaid acts with respect to traverses taken by persons dissatisfied with any award, and the like proceedings shall be taken with respect to a traverse so taken by the company, and the verdict of the jury upon such traverse shall have the like effect as in the case of a traverse taken by a person so dissatisfied: provided always, that in all cases where a traverse shall be so taken by the company, if the verdict of the jury shall be for a sum less than that awarded by the arbitrator, the company shall nevertheless pay to the other party to such traverse such sum not exceeding twenty pounds for the costs of such traverse as the judge before whom the same is tried shall direct: and in case the verdict of the jury shall be for a sum equal to or exceeding the award of the arbitrator, then and in that case the company shall pay to the other party the costs of the traverse, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of an issue from the Court of Queen's Bench.

27 & 28 VICT. c. 71. i.

14 & 15 Vict.
c. 70.
23 & 24 Vict.
c. 97.

The Com-
pany, if
dissatisfied
with award,
in cases
exceeding
500*l.*, may
traverse.
[Amended
by 31 & 32
Vict., c. 70.]

27 & 28 VICT.
CAP. 71.

Power to
have special
jury.

2. In all cases of traverse taken upon an award of the arbitrator, the company or person appellant shall be entitled to have the same tried by a special jury upon giving notice in writing to the respondent in such traverse of their or his intention that the same shall be so tried ten days previous to the assizes or term respectively (as the case may be), and the respondent in such traverse shall be so entitled upon giving the like notice six days before the said assizes or term: provided that any judge of any of the superior courts sitting in chamber or at nisi prius may at any time order that such traverse shall be tried by a special jury upon such terms as he may think fit.

Notice to be
given to the
sheriff of
special jury.

3. Where notice has been given to try by special jury either party may, six days before the first day of the assizes or of the term, as the case may be, give notice to the sheriff that such action is to be tried by a special jury; and in case no such notice has been given, or the notice has not been given in sufficient time, no special jury need be summoned to attend, and such traverse shall be tried before a common jury unless otherwise ordered by the judge before whom the same shall be tried.

Either party
to such tra-
verse en-
titled to
have the
premises
viewed by
the jury.

4. Either party to such traverse shall be entitled to have the premises viewed by the jury, and for that purpose it shall be sufficient to obtain an order of any such judge as aforesaid directing a view to be had, and thereupon all such proceedings shall be had as are directed by the "Common Law Procedure Amendment Act, Ireland, 1853," section 116, with respect to view juries.

Either party
may appeal
from ruling
of judge.

5. In case either party shall be dissatisfied at the trial of such traverse with the ruling of the judge upon any matter of law, he shall be entitled to appeal from such ruling in the manner herein contained.

The party
objecting
shall deliver
to the judge
a note in
writing
stating
objection
and grounds
thereof.

6. The party so objecting shall deliver to the judge at the time of such trial a note in writing, stating such objection and the grounds thereof, and shall and may prepare a case, stating the facts and matters appearing in evidence so far as may be necessary, and the ruling of the judge, and the objections to such ruling, and such case may be accompanied by an appendix containing copies of the material documents; and all proceedings shall be taken with respect to the settlement of such case, and within the same period, as are taken in Ireland with respect to bills of exceptions to the direction of a judge at nisi prius.

Special case,
when settled
and signed
by the
judge, to
be filed

7. Such special case and the appendix thereto, when settled and signed by the said judge, shall be filed in such one of the superior courts as the said judge shall direct,
27 & 28 VICT. c. 71. ii.

and such court shall proceed to adjudicate on the same in like manner as upon a special case stated under the said Common Law Procedure Act, and the adjudication of such court shall be final.

27 & 28 VICT.
CAP. 71.

8. It shall be lawful for such court, upon the hearing of such special case, to direct any issue to be tried, or any valuation or other inquiry to be made, or the said case to be amended in any way, or other act to be done, which such court may deem proper, in order finally to adjudicate upon and determine the rights of the parties.

Court may direct an issue or other inquiry.

9. The judgment or order of the said court upon such special case shall be equivalent to a judgment of the said court in a personal action between the parties.

Judgment upon special case to be equivalent to judgment of court.

10. In all cases where the company shall take any proceedings by way of appeal as aforesaid the costs thereof shall be ordered to be paid by them; but in cases where the company shall be respondent in such appeal the costs of such proceedings shall follow the event, and be included in the ultimate judgment of the court of appeal.

Costs of appeal to be paid by company where appellants.

11. The amount of the purchase money or other compensation payable by the company in respect of lands temporarily occupied by them during the construction of the works, in case the parties shall differ about the same, shall be determined in manner following: the person claiming such purchase money or compensation shall deliver to the arbitrator a short statement in writing, setting forth the nature and amount of such claim, and shall also and at the same time deliver to the company a copy of the same; and the like proceedings in all respects shall be had with respect to such claim as are by the aforesaid acts or by this act directed to be taken with respect to a claim for compensation for lands taken or injuriously affected by the execution of the works; and the arbitrator shall have full jurisdiction to entertain such claim, and determine the amount payable in respect thereof, although the lands so temporarily occupied may not be contained in the maps and plans deposited with him; and the said arbitrator may include the amount so ascertained by him as last aforesaid in his general award, or may make a special award in relation to the same in case it shall be necessary or convenient so to do, such special award to be made in like manner, and to be subject to the like provisions in all respects as such general award; and all the enactments expressly, or by reference or incorporation, contained in the said acts or in this act with respect to purchase money or compensation ascertained by the award of the arbitrator in respect of lands permanently taken by the company shall be applicable

As to compensation in respect of lands temporarily occupied.

27 & 28 VICT. CAP. 71. to the purchase money or compensation ascertained as aforesaid by the arbitrator in respect of lands so temporarily occupied as aforesaid.

Taxation of costs.

12. In all cases where costs of conveyances shall be payable by the company such costs shall be taxed by one of the taxing masters of the court of chancery in Ireland, upon the requisition of such company; and all the provisions of any act of parliament, and all rules and regulations of the courts of law and equity in Ireland relating to the taxation of costs shall be deemed applicable to such costs so payable by the company in like manner in all respects as if the said company were directly chargeable therewith.

Construction of term "company."

13. In the construction of the Railways Act (Ireland) 1851, and of the Railways Act (Ireland) 1860, and of this act, the expression "company" shall include and parties, whether company, undertakers, commissioners, drainage board, corporation, or private persons, empowered to execute any work or undertaking, and to take or use any lands, mills, or other hereditaments compulsorily under the provisions of any general or special act of Parliament, already or hereafter incorporating the said recited acts and this act or any of such acts.

As to payment to occupant of land of value of crops thereon.

14. When any railway company shall not take possession of or pay for any land within one fortnight from the lodgement of the final award of the arbitrator with the clerk of the peace, the said company shall, before taking possession of the same, in addition to the sum awarded by the arbitrator, pay to the occupant of any land to be taken the value of any crop existing upon or in the land at the time of taking possession of same, and which has not been included in said award, such value to be determined by any three justices of the petty sessions district in which such lands may be situated, one to be named by the railway company, one by the occupant of such land, and the third by the two justices so named.

Within five years after the opening of a railway, the company may be called upon to make certain accommodation works, and, if so, the matter shall be referred to an arbitrator.

15. Every railway company in Ireland shall cause proper fences to be made and maintained for separating the land taken for the use of the railway from the adjoining lands not taken, and shall also provide and maintain proper drains or other passages either over or under or by the sides of the railway to convey water from or to the lands lying near or affected by the railway, in the same manner and to the same extent as it was conveyed from or to the said lands before the making of the railway, or as near thereto as the case may be; and in case any owner or occupier of such land shall complain of the want of or insufficiency of any such fences, drains, or passages, it shall be lawful for such owner or occupier,

within five years after the completion of the works of any railway and the opening of the railway for public use, to present a memorial to the commissioners of public works in Ireland stating the ground of his complaint, and thereupon the commissioners shall inquire into the matter of such complaint, and, if they shall so think fit, the said commissioners shall appoint an arbitrator to hear and determine the matter of the said complaint.

27 & 28 VICT.
CAP. 71.

16. The arbitrator so appointed shall have and exercise all the powers vested in any arbitrator appointed under the "Railways (Ireland) Acts, 1851 and 1860," and shall proceed to investigate the said complaint at some convenient place to be named by the said commissioners of public works, after giving ten days notice of the time and place of meeting to the memorialists and to the railway company, and his award may be traversed in the same manner as any award made by an arbitrator appointed under the "Railways (Ireland) Acts, 1851 and 1860," and if not traversed shall be final; and the costs of the said arbitration and of the said arbitrator shall be paid in the same manner as the costs of an arbitration or arbitrator under the "Railways (Ireland) Acts, 1851 and 1860."

Arbitrator shall have all the powers of an arbitrator appointed under 14 & 15 Vict. c. 70, and 23 & 24 Vict. c. 97.

17. The company shall make all such fences, drains, and passages as by the award of the said arbitrator they shall be directed to make; but no company shall be required to make the same in such a manner as will prevent or obstruct the working or using of the railway, nor shall they be required to make any fence, drain or passage in respect of which the owner and occupier, or any former owner and occupier, shall have agreed to receive and shall have been paid compensation in lieu of the making of the works themselves.

The company shall obey the award of the arbitrator, except in certain cases.

18. The Railways Act (Ireland) 1851, and the Railways Act (Ireland) 1860, and this Act, shall be construed together as one act; and this act, together with the said acts, shall be held to be incorporated with those acts in any act already or hereafter incorporating those acts or any of them.

This act and 14 & 15 Vict. c. 70, and 23 & 24 Vict. c. 97, to be read together.

19. This act may be cited as the Railways Act (Ireland), 1864.

Short title.

PIER AND HARBOUR ORDERS CONFIRMATION, 1864.

27 & 28 Vict. Cap. 93. An Act for confirming certain Provisional Orders made by the Board of Trade under The General Pier and Harbour Act, 1861, relating to Brighton, Eastbourne, Sandown, Walton-on-the-Naze, Clevedon, Rhyl, Bray, Kircubbin, Walton (Suffolk), Holywood, Exe Bight, Lytham, Ardglass, Filey, Greenock, Carlingford Lough, Wexford, Torquay, and Oban (so far as relates to Railways).

[29th July, 1864.]

**Amendment
of order as
to Carling-
ford Lough.**

3. With regard to the Carlingford Lough provisional order, the clauses numbered 3 and 13 of that order shall be deemed to be and the same are by this act expunged from the same order.

The clause following shall be inserted in the same order instead of clause 3 thereof.

The appointment of the commissioners shall be regulated as follows :

**Appoint-
ment of the
several com-
missioners.**

(1.) The following four persons are hereby appointed commissioners, namely, William Forster, Richard Allen Minnitt, Edward Tipping, and Richard Mayne ; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of any one of those four commissioners, the commissioners shall by a special order appoint another person to fill the vacancy, and so toties quoties :

**By Newry
navigation
company.**

(2.) Two of the commissioners shall be appointed by the Newry navigation company ; and whenever a vacancy is caused by death, resignation, or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :

**By Newry
town com-
missioners.**

(3.) Two of the commissioners shall be appointed by the Newry town commissioners ; and whenever a vacancy is caused by death, resignation or otherwise in the office of either of those two commissioners, another person shall be appointed by the Newry town commissioners to fill the vacancy, and so toties quoties :

**By Newry
and Green-
ore railway
company.**

(4.) Two of the commissioners shall be appointed by the Newry and Greenore railway company ; and whenever a vacancy is caused by death,

27 & 28 VICT. c. 93. i.

resignation, or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :

27 & 28 VICT
CAP. 93.

- (5.) Two of the commissioners shall be appointed by the Dundalk and Greenore railway company; and whenever a vacancy is caused by death, resignation or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :

By Dundalk
and Greenore
railway
company.

- (6.) The board of trade may, if they think fit, at any time after the passing of an act confirming this order, appoint two persons to be commissioners; and whenever a vacancy is caused by death, resignation, or otherwise in the office of any one of those two commissioners, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties.

By board of
trade.

Schedule 11. EXE BIGHT. Provisional order of the Board of Trade, for the construction, maintenance, and regulation of a pier in the Exe Bight in the Harbour of the River Exe in the county of Devon.

17. The undertakers may at any time, by deed, transfer or lease to the South Devon Railway Company, their lessees or assigns, or to any other company or corporation, their lessees or assigns, if and when the said railway company, their lessees or assigns, or any other company or corporation, their lessees or assigns, are lawfully empowered to take or transfer or lease under the present provision, or to any person, or persons, all or any part of the works herein specified, and the right to receive all or any part of the rates authorized by this order, but so that any deed or transfer, or lease, under this provision shall not have any effect unless it is made with the approval of the board of trade, testified in writing signed by a secretary of the board.

Power to
transfer to
South Devon
railway
company.

Schedule 16. CARLINGFORD LOUGH. Provisional order of the Board of Trade for the Improvement and regulation of the Harbour of Carlingford Lough in Ireland.

27. Nothing in this order contained shall take away, alter, lessen, or prejudice any of the respective rights, privileges, powers, or authorities vested in or enjoyed by the Newry navigation company, the Newry and Greenore railway company, and the Dundalk and Greenore railway company, or any or either of them.

Saving
rights of
navigation
company
and of
railway
companies.

ACCIDENTS COMPENSATION ACT AMEND- MENT, 1864.

27 & 28 Vict. Cap. 95. An Act to amend the Act Ninth and Tenth Victoria, Chapter Ninety-three, for compensating the Families of Persons killed by Accident. [29th July, 1864.]

9 & 10 Vict. c. 93. WHEREAS by an act passed in the session of Parliament holden in the ninth and tenth years of her Majesty's reign, intituled "An Act for compensating the Families of Persons killed by Accident," it is amongst other things provided, that every such action as therein mentioned shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused as therein mentioned, and shall be brought by and in the name of the executor or administrator of the person deceased: and whereas it may happen by reason of the inability or default of any person to obtain probate of the will or letters of administration of the personal estate and effects of the person deceased, or by reason of the unwillingness or neglect of the executor or administrator of the person deceased to bring such action as aforesaid, that the person or persons entitled to the benefit of the said act may be deprived thereof; and it is expedient to amend and extend the said act as herein-after mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Where no action brought within six months by executor of person killed, then action may be brought by persons beneficially interested in result of action.

1. If and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by the said act that there shall be no executor or administrator of the person deceased, or that there being such executor or administrator no such action as in the said act mentioned shall within six calendar months after the death of such deceased person as therein mentioned have been brought by and in the name of his or her executor or administrator, then and in every such case such action may be brought by and in the name or names of all or any of the persons (if

27 & 28 VICT. c. 95. i.

more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure as nearly as may be, as if it were brought by and in the name of such executor or administrator.

27 & 28 VICT.
CAP. 95.

2. And whereas by the second section of the said act it is provided that the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and whose benefit such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided between the before-mentioned parties in such shares as the jury shall by their verdict direct: be it enacted and declared, That it shall be sufficient, if the defendant is advised to pay money into court, that he pay it as a compensation in one sum to all persons entitled under the said act for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury; and if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue.

Money paid into court may be paid in one sum, without regard to its division into shares.

If not accepted, defendant entitled to verdict on the issue.

3. This act and the said act shall be read together as one act.

This and recited act to be read as one.

IMPROVEMENT OF LAND, 1864.

27 & 28 Vict. Cap. 114. The Improvement of Land Act, 1864 (so far as relates to Railways).
[29th July, 1864.]

Preamble.
12 & 13 Vict.
c. 100.

Charge of lands with money subscribed for construction of railways.

WHEREAS an act was passed in the twelfth and thirteenth years of her present majesty, intituled "An Act to promote the Advance of private Money for Drainage of Lands in Great Britain and Ireland," and several companies have been incorporated by act of parliament, with special powers for promoting the improvement of land in Great Britain and Ireland by drainage and otherwise; and it is desirable to amend and consolidate the law relating to the improvement of land by owners of limited interests, and to enable such owners to charge their lands with money subscribed for the construction of railways and navigable canals which will permanently increase the value of such lands: Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Repealed act
12 & 13 Vict.
c. 100, re-
pealed.

1. The act first above mentioned, being "The Private Money Drainage Act, 1849," is hereby repealed, except so far as relates to any proceedings on applications pending under the said act at the date of the passing hereof, it being the intention hereof that all such proceedings shall be worked out under the said act, and that all charges to be made in consequence of any such proceedings shall be made and operate under the said act, which shall apply thereto as if this act had never been passed: Provided also, that nothing herein contained shall affect any charge made under the said act before the passing hereof, or any right or obligation existing or which may arise in respect of any such charge.

Commissioners, Land-owners, &c.

And with regard to the commissioners for the execution of this act, and other general matters, be it enacted as follows:

Interpretation of "the commissioners."

2. By "the commissioners" shall herein be meant, as regards lands in Great Britain, the inclosure commissioners for England and Wales, and as regards lands in Ireland, the commissioners of public works in Ireland under an act of the first and second years of his late majesty king William the fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," and an act of the fifth and sixth years of the reign of her present majesty, intituled "An Act to promote Drain-

1 & 2 W. 4,
c. 33.

5 & 6 Vict.
c. 69.

27 & 28 VICT. c. 114, i.

age of Lands, and Improvement of Navigation and Water Power in connexion with Drainage, in Ireland," and the several acts amending the same respectively.

27 & 28 Vict.
CAP. 114.

3. All the provisions of the act of the ninth and tenth years of the reign of her present majesty, intituled "An Act to authorize the Advance of Public Money to a limited Amount to promote the Improvement of Land in Great Britain and Ireland by Works of Drainage," and of any and every other act for the time being in force relating to any of the aforesaid commissioners, so far as the same may concern or be auxiliary to the proceedings or inquiries of the commissioners under the authority of such acts or any of them, or the authentication of instruments, shall, except as in this act otherwise provided, extend and be applicable to their proceedings and inquiries, and the authentication of instruments, under this act.

Provisions of
9 & 10 Vict.
c. 101, &c., to
extend and
be applicable
to proceed-
ings of com-
missioners.

4. Every assistant commissioner or inspector acting in any matter, inquiry, or proceeding by the authority and in the execution of this act may receive declarations and statements, and examine upon declaration all such persons as may voluntarily attend before him in such matter, inquiry, or proceeding.

Assistant
commission-
ers may take
declarations
and examine
witnesses.

5. If any person shall wilfully give false evidence in any matter, inquiry, or proceeding under the provisions of this act, or shall make or subscribe a false statement or declaration for the purposes of this act, such person shall, in England or Ireland, be deemed guilty of a misdemeanor, and in Scotland of a crime and offence, and shall be punished accordingly.

Punishment
of persons
giving false
evidence.

6. Any notice requiring to be served upon the commissioners may be served by the same being left at or transmitted through the post, directed to their office in London.

As to service
of notices on
commis-
sioners.

7. In all cases in which it shall be necessary under the provisions of this act to serve any notice upon any other person, it shall be sufficient to send such notice in a registered post letter, directed to such person at his then or last known place of residence or of business, unless the letter containing such notice shall be returned from the post office as undelivered; and if such person shall not have any place of residence or of business within Great Britain or Ireland, or if the place of business or of residence of such person cannot with due diligence be ascertained, then such notice may be served upon such other person as his representative, or be given in such other manner as the commissioners shall in such case direct or approve.

As to the
services of
notices on
other per-
sons.

8. The word "landowner" shall mean herein, as to lands in England, the person who shall be in the actual

Interpreta-
tion of
"land-
owner."

27 & 28 Vict. c. 114. ii.

27 & 28 VICT.
CAP. 114.

possession or receipt of the rents or profits of any land, whether of freehold, copyhold, customary, or other tenure, except where such person shall be a tenant for life or lives holding under a lease for life or lives not renewable, or shall be a tenant for years holding under a lease or an agreement for a lease for a term of years not renewable, whereof less than twenty-five years shall be unexpired at the time of making any application to the commissioners, without regard to the real amount of the interest of any person so excepted; and in the case where the person in the actual possession or receipt of the rents or profits of any land shall fall within the above exceptions, then the person who for the time being shall be in the actual receipt of the rent payable by the person so excepted, unless he shall also fall within the above exceptions, shall, jointly with the person who shall be liable to the payment thereof, be deemed for the purposes of this act to be the owner of such lands; and as to lands in Scotland, the word "landowner" shall denote and include every fiar, liferenter, or heir of entail who shall be in the actual possession of the land, or in receipt of the rents payable on the tacks, leases, or tenancies of the tenants in the actual possession thereof; and as to lands in Ireland, the word "landowner" shall mean such person as under the act passed in the first and second years of the reign of her present majesty, intituled "An Act to abolish Compositions for Tithes in Ireland, and to substitute Rentcharges in lieu thereof," shall have the first estate of inheritance, or other estate or interest equivalent to a perpetual estate or interest therein, and also any tenant in dower or by the courtesy, or any person having under the limitations of any settlement by deed, will, act of parliament, or otherwise any estate for life, or other particular estate thereby created or limited out of or in any estate of inheritance, or by, out of, or in any such estate or interest as by or under the last-mentioned act is to be deemed equivalent to a perpetual estate or interest; and as to lands in any part of the united kingdom, the word "landowner" shall include a corporation, and also such persons as are empowered by the twenty-third section hereof.

1 & 2 Vict.
c. 136.

Interpreta-
tion of "Im-
provement
of land."

Tramways
and rail-
ways.

Interpreta-
tion of
"person."

9. By "the improvement of land" shall herein be meant all or any of the following matters: (*inter alia*)

6. The making of permanent farm roads and permanent tramways and railways and navigable canals for all purposes connected with the improvement of the estate:

10. The word "person" shall in this act include companies and all other corporations.

27 & 28 VICT. c. 114. iii.

And with regard to the proceedings preliminary to the sanction of any improvements, be it enacted as follows :

27 & 28 VICT.
CAP 114.

13. The commissioners may from time to time frame and circulate, as they shall see occasion, forms indicating the particulars of the information to be furnished to them by landowners for the purposes of this act, and such other forms as the commissioners may deem expedient for facilitating any proceedings under this act.

Proceedings preliminary to sanction of improvements.

14. The commissioners may require security to be given to them by the landowner, by bond, deposit, or otherwise, in such form as they may think fit, for the payment to them of the expenses which they or their officers shall incur in respect of the investigation on any application, and, if they shall issue such provisional or other sanctioning order as herein-after mentioned, of the expenses which they or their officers shall incur in inspecting and ascertaining the due execution of the works ; but unless the commissioners shall issue such absolute order as herein-after mentioned, such payment shall not be a charge on the land to which such application relates, but shall be a debt due by the person making such application to the commissioners, and shall be recoverable by them as in the nature of a crown debt.

Commissioners may issue forms ; require security for expenses :

15. If the commissioners shall think fit to entertain the application so made to them, they may cause the land to be inspected and examined by an assistant commissioner, or an engineer or surveyor, who shall have regard to and examine the proposals and statements contained in such application, and shall report his opinion thereon, and who shall also report whether in his judgement the proposed improvements will effect a permanent increase of the yearly value of the land exceeding the yearly amount proposed to be charged thereon in respect of the improvements applied for ; and the commissioners may by themselves, or any assistant commissioner, engineer, or surveyor, make such other inquiries in relation to any such application as they shall think fit : Provided that the above requisition as to increased annual value shall not apply to any outlay proposed to be made upon or in respect of planting only.

and cause application to be investigated.

17. Before the commissioners shall sanction any improvements, notice shall be given of the application as well by advertisement inserted in two successive weeks in some newspaper published in the county in which the land to be improved lies, or in case there shall be no such newspaper published in such county then in some county adjoining thereto, as by a notice in writing given, where such lands are situate in England or Ireland, to every

Advertisements and notices preliminary to sanction.

27 & 28 VICT.
CAP. 114.

person entitled to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance therein, and to every person entitled to any mortgage upon such land or any part thereof who by reasonable inquiry shall be known to be so interested, and given, where such lands are situate in Scotland, to the nearest heir or heirs of entail, not exceeding three, and to the holders of every heritable security on such lands appearing upon the records; and in such advertisements and notices respectively shall be stated the maximum amount which it is proposed to charge in respect of the improvements, and the greatest and least terms over which it is proposed that the rentcharge should be spread; and the commissioners shall not sanction the improvements until one month shall have elapsed from the publication of the second of such advertisements and the service of such notices (if any) respectively, of which publication, and of the service of all necessary notices as aforesaid, the landowner shall, if required by the commissioners, satisfy them by one or more statutory declarations made by him or on his behalf.

Power of dissent by persons interested, and protection of landowner's infant children.

18. In case any person having any estate in or charge or security on the land to be improved shall within the month named in the last preceding section signify in writing to the commissioners his dissent from such application, stating therein the nature of his estate in or charge or security on such land, the commissioners shall certify such dissent to the landowner by whom the application was made, and shall not make any provisional or other order sanctioning the improvements unless or until such dissent be withdrawn, or an order be made by the high court of chancery in England or Ireland respectively, or by the court of session in Scotland, in manner herein-after provided, authorizing the commissioners to sanction the same; nor shall they make any provisional or other order sanctioning the improvement of any land in the case of which the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or in equity to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, unless or until such an order as herein-before mentioned shall be made by such court as aforesaid.

Consents necessary in

20. When the land to which the application relates, or any part of such land, is held in right of any church,

26 & 27 VICT. C. 114. v.

chapel, or other ecclesiastical benefice, the commissioners shall not sanction any improvement of such land, or of so much thereof as is so held, unless and until the patron of the benefice, and in England and Ireland the bishop of the diocese, and in Scotland the presbytery of the bounds, shall signify to the commissioners, by writing under their hands, their respective consents to such application.

27 & 28 VICT.
CAP. 114.

case of
church
lands.

21. If and when any dissent from any such application to the commissioners for their sanction of proposed improvements shall have been notified in writing to the commissioners, either by a party interested in the lands proposed to be improved (not being lands held in right of any church, chapel, or other ecclesiastical benefice), or by the commissioners, trustees, company, or other body or individuals interested in any river or canal which would or might be interfered with as herein-before mentioned, or if the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or in equity to any estate in the land to be improved, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, the landowner desiring such improvements may apply to the high court of chancery in England or Ireland where such lands are situate in England or Ireland respectively, or to the court of session where such lands are situate in Scotland, for an order of such court authorizing the commissioners to entertain and proceed upon the application for such proposed improvements notwithstanding such dissent or circumstance; and such application shall be made, as to lands in England, to the master of the rolls or any one of the vice chancellors sitting at chambers, by summons, calling on the party dissenting to show cause why such order should not be made; as to lands in Ireland, to the master of the rolls, by summary petition or otherwise, as he shall by any general order direct; and as to lands in Scotland, to either division of the court of session in time of session, or to the lord ordinary sitting on bills in time of vacation, by summary petition; and the court or single judge, as the case may be, to whom such application shall be made, shall hear and determine such application, and for that purpose shall have power to make or direct to be made all such inquiries, and receive and entertain all such statements and evidence, on oath or by affidavit, as such court or judge may consider necessary or desirable, or as may be produced before them or

In case of
dissent,
or when
landowner's
infant children
are to be
protected,
court of
chancery
or session
may authorize
commissioners
to proceed.

27 & 28 VICT.
CAP. 114.

him; and if upon a consideration of all the circumstances such court or judge shall be of opinion that the commissioners should entertain and proceed upon such application, an order shall be made authorizing and requiring them to proceed thereon, and to deal with the same according to the provisions of this act authorizing them in that behalf, notwithstanding such dissent or circumstance as aforesaid: Provided that if at any time after notification of such dissent, and before any such order shall have been applied for and made as aforesaid, such dissent shall be withdrawn by a like notification in writing, it shall not be necessary to make or proceed with such application, or to obtain such order.

Service of
notice under
preceding
clause.

22. Where any party dissenting shall be out of the jurisdiction of the court, it shall be lawful for the court or judge to order service to be made in such manner as such court or judge may think fit, and upon proof to the satisfaction of such court or judge that such party has had actual notice within a reasonable time of such intended application, it shall be lawful for such court or judge thereupon to hear and determine such application.

And costs
may be
given by
the court.

23. The costs of and incidental to every application under the twenty-first and twenty-second sections, and the mode in which such costs shall be settled or taxed, shall be in the discretion of the court or judge who shall hear such application, and if such court or judge shall so direct, the said costs shall be deemed to be part of the expenses of and incidental to the application for the proposed improvements.

Sanction of
improvements,
and rights there-
under.

And with regard to the sanction of any improvements, and the rights arising thereunder, be it enacted as follows:

Commissioners'
order sanctioning im-
provements.

25. If the commissioners shall find that the proposed improvements or any part thereof, whether with or without any alterations by them required or sanctioned, would effect a permanent increase of the yearly value of the lands proposed to be improved, or of any part thereof, exceeding the yearly amount proposed to be charged thereon, they shall sanction such improvements, or such part thereof as they shall think expedient, if under the preceding sections it shall be lawful for them so to do, by an order under their hands and seal; and they shall by the same order fix the rate of interest to be allowed on the cost of the sanctioned improvements, having regard to the market value of money at the time, but such interest shall never exceed five per cent per annum.

Charges for
improvements.

And with regard to charges for improvements under this act, be it enacted as follows:

27 & 28 VICT. c. 114. vii.

50. If the landowner is desirous that the inheritance or fee of the lands improved should be charged with the expenses of and incident to his application to the commissioners, or his contract with any company or person relating to the execution of the improvements, or to the advance of money for their execution, the commissioners may ascertain the amount of the costs, charges, and expenses properly incurred preparatory or in relation to and consequent on such contract, and the application to the commissioners or either of them, and may include in the principal money charged on the inheritance or fee of such lands the amount of such costs, charges, and expenses, and of the settled or taxed costs, if any, which a court or judge shall have ordered as aforesaid to be deemed and taken to be part of the expenses of and incident to the application for improvements, or such part thereof as the commissioners think fit; and the commissioners may also include in such principal money interest at a rate not exceeding five pounds per centum per annum on all payments forming part of the same principal money from the respective dates of such payments to that of the absolute order, but so that no interest shall be allowed on any such payment for more than six years; provided that the total amount of the principal money to be charged on the lands improved under the provisions of this act shall not in any case exceed that to which, in the opinion of the commissioners, the inheritance or fee of the lands improved will be durably benefited by the improvements.

27 & 28 VICT.
CAP. 114.

Expenses of application and certain contracts may be included in charge.

51. Every charge under this act shall be created by way of rentcharge, payable half-yearly, extending over the term of years fixed by the provisional or other sanctioning order, and the first payment thereof to be made six months after the time when the works in respect of which the same was granted were executed to the satisfaction of the commissioners; and the payment for each half year shall be, and be expressed to be, as to part thereof a repayment of a certain amount of principal money, and as to the remainder thereof a payment of interest; and the charge shall be duly stamped for denoting payment of the proper ad valorem stamp duty which would be payable on a mortgage for securing the like amount as the principal money thereby charged, and shall be called an absolute order; and a copy of every such absolute order shall be authenticated by the seal of the commissioners, and shall be kept by them; and such copy, and any copy thereof authenticated by their seal, shall be evidence of the contents and purport of the same absolute order.

The charges to be by way of rentcharge created by absolute order,

27 & 28 VICT.
CAP. 114.

and may
be made
according
to form in
schedule (B.)

Subscription
to railways.

Conditions
for applica-
tion to com-
missioners.

Commis-
sioners pro-
ceedings on
application.

Provisional
order sanc-
tioning
charge.

52. Charges under this act shall be made according to the form in the schedule (B.) hereto annexed, or as near thereto as the circumstances of the case will admit.

And with regard to charging lands with money subscribed for the construction of railways, be it enacted as follows :

78. In case any landowner shall be desirous of subscribing for any shares or stock in the capital, whether original or additional, of a company having power to construct a railway or navigable canal, or any branch or extension railway or navigable canal, or any deviation of a line of railway or a navigable canal already sanctioned, the works for which such subscription is to be made being unfinished, or in any additional capital to be raised for the completion of any such railway, canal, branch, extension, or deviation, the same being upon or near to and which will improve or benefit the lands of such landowner, and who shall be desirous that such amount, or any part thereof, may be charged upon the lands so to be improved, it shall be lawful for him to apply to the commissioners for that purpose within the time limited by the railway or canal company's act or acts for the construction of the works in question.

79. If the commissioners shall think fit to entertain such application, they shall cause all such inquiries to be made, and take all such other steps, as shall seem to them expedient for obtaining information as to the circumstances ; and all the provisions of the thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth, and fifty-first sections of this act shall apply to the case as though an improvement were to be made of the lands proposed to be charged.

80. If the commissioners shall be satisfied that the railway or canal, when constructed and open for traffic, will effect a permanent increase of the yearly value of the lands exceeding the yearly amount proposed to be charged thereon, they shall execute and deliver to the landowner a provisional order, under their seal and the hands of two of them, expressing their sanction of the charge proposed ; and such order shall be made as near to the form set forth in the schedule (A.) to this act as the circumstances will permit, and shall, with the right to a charge thereby created, be assignable by endorsement, either absolutely or by way of security, to any company or person that may agree to advance, by paying the same to the railway or canal company, the amount authorized to be charged, and notice of such assignment

shall be given to the commissioners, and shall be registered by them. 27 & 28 VICT.
CAP. 114.

81. Every company empowered by act of parliament to lend money for the improvement of land is hereby empowered to advance, by paying the same to the railway or canal company, any money authorized to be charged in manner aforesaid. Companies
empowered
to lend.

82. When the railway or canal shall have been completed and opened throughout for public traffic, and as many shares in the capital of the railway or canal company subscribed for or held as aforesaid by the landowner as shall be equal in nominal amount to the money authorized to be charged shall have been fully paid up, and the certificates for such shares shall have been deposited by the landowner with the commissioners, the commissioners shall, by an absolute order under their hands and seal, execute to the landowner or his assignees a charge upon the inheritance or fee of the lands in question of the amount authorized as aforesaid to be charged, and may, if the landowner shall so desire, include, with the principal money so charged, the costs, charges, and expenses of the application and orders, and of any advance which may have been made to him of the amount authorized to be charged, and such settled or taxed costs and interest as mentioned in the fiftieth section hereof, subject nevertheless to the proviso in the same section contained. Commis-
sioners ab-
solute order
and its con-
ditions.

83. Such absolute order shall be made in the form in the schedule (B.) to this act annexed, or as near thereto as the circumstances will permit, and all the provisions of this act relating to absolute orders, whether in respect of the form or effect of such charges or orders or otherwise, except only the provisions for the apportionment and release of such charges, shall apply to absolute orders under the last preceding section as far as the circumstances admit. Form and
effect of
absolute
order.

84. The landowner shall forthwith give notice to the railway or canal company of the execution of such absolute order, and of the deposit of such certificates with the commissioners, and thereupon the company shall make an entry or memorial in their register of shareholders with respect to such shares of the fact of such absolute order having been executed. Notice
thereof to
be entered
in register
of share-
holders.

85. From the time of such notice, and during the whole term of the charge created by such absolute order, the person who for the time being shall be bound to make the periodical payments of such charge shall be entitled to the said shares, and if the same shall not at the time being be registered in his name, the person registered as Person lia-
ble to pay
charge to be
entitled for
the time
being to the
shares,

27 & 28 VICT.
CAP. 114.

and to have
them stand
in his own
name.

Rights and
duties of
persons
registered
for the time
being in re-
spect of the
shares.

Entire
shares to be-
long to par-
ties in pro-
portion to
their pay-
ments, and
to be releas-
ed to them
from time to
time.

the holder thereof shall, as between himself and the person so entitled, hold them in trust for such last-mentioned person.

86. The person so for the time being entitled may at any time require the person registered as the holder of the said shares, or his representatives, to transfer to him the said shares, and such transfer shall thereupon be made accordingly, but at the expense in all respects of the transferee; and upon the production of such transfer duly stamped, and of a certificate by the commissioners under their hands and seal that the transferee is the person at the time being bound to make the periodical payments of the said charge, the railway or canal company shall register such transfer.

87. With the exception of such transfers as may from time to time be made for the purpose of transferring the shares to the person so for the time being entitled thereto, the said shares shall not under any circumstances be transferred or disposed of by the registered holder, whether he be the person for the time being entitled thereto or not, during the term of the said charge; but during the term of such charge the registered holder for the time being of the said shares shall have all the other rights and powers of a shareholder in the railway or canal company in respect of the said shares; and the railway or canal company shall not be bound to see to the application of any dividend received by such registered holder, but as between himself and the person or persons for the time being entitled to such shares he shall hold any dividend which may be received by him in trust for the person who, at the time when such dividend became payable, was the person entitled to the said shares.

88. Whenever any person or those whom he legally represents as their executor or administrator shall have been bound to make, and shall have made, such and so many periodical payments of the charge as to repay thereby principal money which, in proportion to the whole amount of principal money charged and the whole number of the said shares, shall correspond to any integral number of shares, with or without a fraction over, it shall be lawful for the commissioners, on the application of such person, made either during the term of the charge or within two years after its expiration, to certify that fact under their hands and seal, and by the same certificate to appropriate to such person certain specified shares to such integral number, and to deliver to him the corresponding share certificates; and upon the production to the railway or canal company of such certi-

dicate by the commissioners and share certificates, it shall be lawful for such person, if he shall not already be the registered holder, to require such share to be transferred to him, and the railway or canal company shall make an entry or memorial on their register of shareholders of such shares being freed from the provisions of this act, or of the term of the charge having expired, as the case may be, and such shares shall thenceforward be held and transferred in the same manner as any other shares in the same company, but if the term of the charge shall not have expired the three last preceding sections of this act shall still apply to the residue of the shares to which the same charge shall relate.

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CAP. 114.

89. The shares composing the said residue shall at the end of two years after the expiration of the term of the charge belong to the person who shall have been bound to make the last periodical payment of the charge, or to his executors or administrators, on such payment being made; and the commissioners shall deliver to him or them the corresponding share certificates, and certify the title to the shares under their hands and seal in accordance with the above provision; and upon the production to the railway or canal company of the share certificates and such certificate by the commissioners, such person as aforesaid, or his executors or administrators, shall have the said shares transferred to him or them, so far as he or they shall not be already the registered holder or holders thereof; and the railway or canal company shall make an entry or memorial on their register of shareholders of the term of the charge having expired, and thenceforward the said shares shall be held and transferred in the same manner as any other shares in the same company.

Shares not claimed within two years from expiration of term to belong to person bound to make last payment of charge.

90. And whereas it is expedient that a table or tables of fees proper to be taken by the inclosure commissioners in respect of documents issuing out of their office by virtue of the provisions of this act should be prepared: Be it enacted, that it shall and may be lawful for the said inclosure commissioners to prepare or cause to be prepared a table or tables of fees, specifying what fees are proper to be demanded and taken in the office of the said inclosure commissioners in respect of any forms, orders, or documents prepared in or issued from such office by virtue of the provisions of this act; and such table or tables shall be laid before the commissioners of her majesty's treasury, who shall have power to revise and settle the same, and from time to time to alter or amend the same, as they may deem necessary and proper, and the said table or tables of fees, so revised, settled, altered,

Inclosure commissioners to cause a table of fees to be prepared and submitted to treasury for approval.

27 & 28 VICT.
CAP. 114.

or amended, from time to time to approve and allow; and the said inclosure commissioners are required, so soon and as often as each table or tables of fees shall have been approved and allowed, to cause the same to be inserted and published in the London Gazette, and from and after such publication, such fees may be legally demanded, and may be received and recovered, by any person appointed by the said inclosure commissioners to receive or recover the same.

Officers to
render ac-
count of fees
received to
the trea-
sury.

91. The said inclosure commissioners shall cause the fees received by them under the authority of this act to be duly and regularly entered in one or more books to be kept for that purpose, distinguishing the fees received under their several heads, and shall render a true and faithful account thereof to the commissioners of her majesty's treasury at such times, and in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers, as the said commissioners of her majesty's treasury shall from time to time require; and the said inclosure commissioners shall from time to time, when required so to do by the said commissioners of her majesty's treasury, cause the amount of such fees to be paid into the receipt of the exchequer to the credit of the consolidated fund of the united kingdom of Great Britain and Ireland.

To be paid
over to the
consolidated
fund.

SCHEDULES to which the foregoing act refers.

(A.) PROVISIONAL ORDER.

(Proper heading.)

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, sanction the proposed improvements expressed

upon the terms and conditions that such improvements be executed in the manner mentioned or specified in the said contract, and at an expense not exceeding the sum of

and do hereby declare and provisionally order that it is right and proper, and for the benefit of the parties interested in the lands mentioned in the schedule hereto, that the inheritance or fee of such lands should

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be charged with the said sum of

together with the costs, charges, and expenses preparatory or in relation to and consequent on the said contract and the application for this order, and that the same should, to the whole amount of such respective monies, [or should to any amount not exceeding as the case may be,] be charged in the manner following; (that is to say,) [here express how the amount is to be repaid, with interest.]

In witness whereof they have hereunto affixed their hands and seal, this day of in the year of our Lord one thousand eight hundred and

SCHEDULE of lands provisionally charged.

Name, &c. of Lands.	Land-owner.	Occupier.	Parish.	County.	Total Acreage.	Total Rental.

(B.) ABSOLUTE ORDER.

The Improvement of Land Act, 1864.

County of

Parish of

No.

[Here insert name of landowner] of [here insert address]

Loan of pounds for the improvement of

in the parish of in the county of

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this absolute order under their hands and seal, charge the inheritance or fee of the lands mentioned in the schedule hereto with the payment to

of the yearly sum of
 pounds shillings and pence, payable
 half-yearly on the day of and
 the day of in every year, for
 the term of years, and being a proportionate repayment,
 according to the table annexed, of the capital sum of
 pounds, with interest, at per cent. per annum, the
 first half-yearly payment to be made on the day of

Dated this day of

27 & 28 VICT. c. 114, xiv.

18

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SCHEDULE of lands charged.

Name &c. of Lands.	Land- owner.	Occupier.	Parish.	County.	Total Acreage.

TABLE.

Half-yearly Payments.	Proportionate Repay- ments of the Loan.	Interest at £ per Cent. per Annum.

(F.) VESTING ORDER.

The inclosure commissioners for England and Wales, in pursuance of
 "The Improvement of Land Act, 1864," do, by this order under their
 hands and seal, in consideration of £ to them paid
 by A. B. of transfer to and vest in the said
 A. B., his executors, administrators, and assigns, Shares of
 and in the railway or canal company, numbered
 and now registered in the Name of C. D.

In witness whereof they have hereunto affixed their hands and seal,
 this day of in the year one thousand
 eight hundred and

RAILWAY COMPANIES' POWERS, 1864.

27 & 28 Vict. Cap. 120. An Act to facilitate in certain cases the obtaining of further Powers by Railway Companies. [29th July, 1864.]

WHEREAS it is expedient that in certain cases railway companies be enabled to obtain further powers on complying with the conditions of a general act of parliament, without being obliged to procure in each case a special act:

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This act may be cited as The Railway Companies' Powers Act, 1864. Short title.

2. In this act —

The term "railway" includes works connected with or for the purposes of a railway, and also a railway authorized to be but not actually constructed: Interpretation of terms "Railway."

The term "railway bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorize the making of a railway: "Railway Bill."

The term "the Companies Clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, The Companies Clauses Consolidation Act, 1845; and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, The Companies Clauses Consolidation (Scotland) Act, 1845; together with in each case "Companies Clauses Acts." 8 & 9 Vict. c. 16.

The Companies Clauses Act, 1863: 8 & 9 Vict. c. 17.

The term "the Board of Trade" means the lords of the committee for the time being of her majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations. 26 & 27 Vict. c. 118, "Board of Trade."

Description of Cases within this Act.

3. This act shall take effect and apply in each of the cases following; namely, Cases in which act to apply.

1.—Where a railway company are desirous that authority should be given to themselves and some Agreements between railway companies.

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27 & 28 Vict.
CAP. 120.

other railway company or companies to enter into an agreement with respect to all or any of the matters following ; namely,

The maintenance and management of the railway of the companies respectively, or of any one or more of them, or of any part thereof respectively ;

The use and working of the railways or railway or of any part thereof, and the conveyance of traffic thereon ;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic ;

The joint ownership, maintenance, management, and use of a station or other work ; or the separate ownership, maintenance, management, and use of several parts of a station or other work :

[Scope of section extended by 31 & 32 Vict. c. 119, s. 38.]

Extension of time for sale of superfluous lands.

Raising additional capital.

II.—Where a railway company are desirous of obtaining an extension of the time limited for the sale by them of superfluous lands :

III.—Where a railway company incorporated by special act or by certificate under The Railways Construction Facilities Act, 1864, are desirous of obtaining authority to raise additional capital.

Application for Certificate.

As to application for certificate by company to board of trade.

4. In any such case the company, if desirous to obtain a certificate under this act, shall proceed as follows ; namely,

(1.) They shall apply to the Board of Trade for a certificate under this act :

(2.) They shall lodge at the office of the Board of Trade a draft of the certificate as proposed by them :

(3.) They shall publish notice of the application according to the general rules under this act.

Board to inquire if requirements have been complied with ;

and to consider all representations and objections.

5. As soon as conveniently may be after the time for completion of the required notice, the Board of Trade shall proceed to inquire whether the company have complied with the requirement of the general rules respecting notice.

6. The Board of Trade before settling a draft of a certificate, shall take into consideration any representation made to them, and shall duly enquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Application.

On railway or canal company

7. If in any case any railway or canal company desire to be heard by counsel, agents, and witnesses against

the application of the promoters, and (within such time as is prescribed by general rules under this act) lodge at the office of the Board of Trade a notice in writing to that effect (herein-after referred to as a notice of opposition) in the form set forth in the schedule to this act (with such variations as circumstances require), in that case the Board of Trade, if the railway or canal company lodging the notice would be affected in any way by the proposed certificate, shall not proceed on the application of the promoters.

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affected giving notice of opposition, proceedings before board of trade to cease.

[Repealed by 33 & 34 Vict., c. 19, s. 2.]

Further proceedings to be in parliament.

[Repealed by 33 & 34 Vict., c. 19, s. 2.]

8. *Where the Board of Trade do not proceed on the application they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.*

Settlement of Draft Certificate.

9. *Where the board of trade proceed on the application, then, on being satisfied that the company have complied with the requirements of the general rules respecting notice, they may, if they think fit, settle a draft of a certificate, certifying to the effect following; namely,*

Power to board of Trade to settle certificate according to nature of application as herein-named.

In the first-mentioned case that the companies in the certificate specified are authorized to agree among themselves with respect to all or any of the matters aforesaid in the certificate specified;

In the secondly-mentioned case, that the time limited for the sale by the company of superfluous lands is extended as in the certificate specified;

In the thirdly-mentioned case, that the company are authorized to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

10. *The board of trade may (subject to the provisions of this act, and having regard to the provisions of any special act relating to any company empowered by a certificate,) insert in the certificate such provisions as*

Insertion of conditions in certificate.

27 & 28 VICT. c. 120. iii.

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Form of certificate.

Draft certificate to be laid before houses of parliament.

Notice thereof to be given.

If either house resolve that certificate ought not to be made, it shall not be proceeded with.

If neither house resolve that certificate ought not to be made, board of trade may issue the same.

Publication of certificate in Gazette.

Operation of certificate as special act.

they, according to the circumstance of the case, deem necessary or proper for better effectuating the purposes of the certificate, and the same shall be deemed to all intents part of the certificate.

11. The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid.

Submission of draft certificate to Houses of Parliament.

12. The board of trade shall lay the draft certificate settled by them before both houses of parliament within seven days after the same is settled, if parliament is then sitting, or if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

13. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this act.

14. If either house of parliament within six weeks after the draft of certificate settled by the board of trade is laid before that house resolves that the certificate ought not to be made, the same shall not be further proceeded with.

Issue and Publication of Certificate.

15. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired the board of trade may make and issue a certificate in conformity with such draft.

16. The certificate shall be published as follows ; namely,

Where one company only is thereby empowered, then in the London, Edinburgh, or Dublin Gazette, according as the head office of the company is situate in England, Scotland, or Ireland :

Where two or more companies are thereby empowered, then in one or more of the gazettes, according as the several head offices of the companies respectively are situate in England, Scotland, and Ireland respectively.

Effect of Certificate.

17. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents, as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament ; and

the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

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18. The certificate shall be judicially noticed without being specially pleaded.

Judicial
notice of
certificates.

19. Terms used in the certificate shall have the same meanings as they have when used in this act.

Interpreta-
tion of cer-
tificate.

20. There shall be incorporated with the certificate (which shall for this purpose be deemed the special act)—

Companies
Clauses
Acts, and
part of 26 &
27 Vict. c.
92 incor-
porated.

In the first-mentioned case, Part III. of the Railways

Clauses Act, 1863 ;

In the thirdly-mentioned case, the Companies Clauses

Acts.

21. In the first-mentioned case, during the continuance of any agreement for the joint working of any two railways, in the calculation of tolls and charges for short distances in respect of traffic conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

Rule as to
short dis-
tances.

22. It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

Restriction
as to issue
of shares.

23. In the thirdly-mentioned case the company, whether incorporated by special act or by certificate, shall be subject to the following restrictions ; namely,

Restrictions
on company
as to borrow-
ing, &c.

- (1.) They shall not exercise any power of borrowing money under the certificate until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one half thereof is actually paid up, and until they prove to the justice who is to certify under section 40 of The Companies Clauses Consolidation Act, 1845, or (in Scotland) to the sheriff who is to certify under section 42. of The Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares are taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence) :

8 & 9 Vict.
c. 18, s. 40.

8 & 9 Vict.
c. 17, s. 42.

27 & 28 VICT.
CAP. 120.

- (2.) They shall not borrow a larger sum in the whole than one third of the amount of the share capital authorized by the certificate :
- (3.) They shall not, out of money raised under the certificate by calls or borrowing, pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made as is allowed by the Companies Clauses Acts) :
- (4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade :
- (5.) They shall apply every part of the money so raised only for the purposes for which it is by the certificate authorized to be applied.

Miscellaneous.

Power to
board of
trade to
reject ap-
plication.

24. Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application for a certificate should not be complied with.

Nothing to
exempt rail-
ways from
operation
of general
acts.

25. Nothing in the certificate shall exempt any railway to which it relates, or the company to whom that railway belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration, under the authority of parliament, of the maximum tolls and charges allowed to be taken in respect of that railway.

Certificate
under this
and Rail-
ways Con-
struction
act.

26. A certificate may be made under this act and The Railways Construction Facilities Act, 1864, jointly, and in any such case the forms of certificate given in this act and the said act may be adapted to the circumstances of the case.

Approval by
members of
company
required, as
under stand-
ing orders.

27. Where, in case the company were proceeding by a railway bill instead of under this act, the approval of the bill in any manner by the members of the company would be required under the standing orders of either house of parliament for the time being in force, the board of trade shall not issue a certificate without being satisfied that the members of the company have in like manner approved of the application to the board of trade.

28. Subject and according to the restrictions and provisions of this act, the board of trade, on the application of the company, may from time to time amend, extend, or vary by certificate any certificate issued under this act, and may by certificate revoke a previous certificate issued under this act.

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CAP. 120.

Power for board of trade to amend or revoke certificate.

29. If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of the company, body, or person affected by the error, and on notice to the company or companies empowered by the certificate, correct the error by a further certificate.

Power to correct error.

30. A copy of the London or Edinburgh or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate and of the due publication thereof, without any proof of the gazette or without any proof of the copy having been in fact so printed, as the case may be.

Proof of certificate.

31. Every company empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the gazette or one of the gazettes in which the same was published in such form as general rules direct, to be sold to all persons desiring to buy the same at a price not exceeding one shilling for each copy.

Copies of certificate for sale.

If any company fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

32. The provisions of this act relative to the first-mentioned case and to the secondly-mentioned case respectively shall extend and apply, *mutatis mutandis*, to the proprietors of a railway although not incorporated as a company.

Application of act to proprietors of railways generally.

33. Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under The Railways Clauses Consolidation Act, 1845, and The Railways Clauses Consolidation (Scotland) Act, 1845, as the case may require, are recoverable and applicable.

Recovery and application of penalties.
8 & 9 VICT.
cc. 20, 33.

34. The act of the session of the seventh year of king William the Fourth and the first year of her majesty (chapter eighty-three), "to compel Clerks of the Peace

Custody of documents.
7 W. 4. & 1
VICT. c. 68.

27 & 28 VICT. c. 120. vii.

27 & 28 VICT.
CAP. 120. "and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this act.

General rules in schedule, with power for amendment.

35. The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering, or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament; and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

Annual report to parliament by board of trade.

36. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past.

The SCHEDULE referred to in the foregoing Act.

[Part (i.)
Repealed
by 38 & 39
Vict., c. 19,
s. 2.]

(i.)—Notice of Opposition.

*In the matter of
The Railway Companies' Powers Act, 1864,
and*

*The application of the railway company for
a certificate the draft whereof is intituled [set out title].
We, the railway [or canal] company, hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the granting to the above-named railway company of the powers sought to be obtained by them by the above-mentioned application.*

Dated this day of 18 .

Witness, A.B.

L.S.

27 & 28 VICT. c. 120. viii.

(ii)—FORM OF CERTIFICATE OF BOARD OF TRADE.

The railway company.

Certificate of the board of trade for the extension of time for sale of superfluous lands [or as the case may be].

Whereas the railway company have complied with the requirements of The Railway Companies' Powers Act, 1864:

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[Here are to follow the provisions of the certificate showing the powers conferred and the terms and conditions (if any) imposed.]

(Signed) O.D.

The board of trade,
Whitehall.

Secretary to the board of trade.

Dated this day of

(iii.)—GENERAL RULES.

Form of Application.

1. The application to the board of trade for a certificate is to be made by a memorial in writing under the common seal of the company, lodged at the office of the board of trade.

2. Together with the memorial the company are to lodge a printed draft of the certificate as proposed by the company.

ADVERTISEMENTS AS TO APPLICATION.

3. Notice of the application to the board of trade is to be given by advertisement published as follows; namely,

In every case, once in each of three successive weeks in some one and the same newspaper of the county, city, or town, or county of a city or town, wherein the head office of the promoters is situate:

In the case referred to in the foregoing act as the first-mentioned case, once in each of three successive weeks in some one and the same newspaper of each county, city, or town, or county of a city or town, wherein the head office of any railway company with whom the promoters propose to enter into an agreement is situate:

If in any case there is not any such newspaper as herein-before described, then in like manner in a newspaper of some adjoining or neighbouring county:

In every case where one company only is proposed to be empowered, then in the London, Edinburgh, or Dublin Gazette, according as the head office of the company is situate in England, Scotland, or Ireland:

In every case where two or more companies are proposed to be empowered, then in one or more of the Gazettes, according as the several head offices of the company respectively are situate in England, Scotland, and Ireland respectively.

4. The advertisements are to be published either in the month of June or in the month of November, and not at any other time.

5. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as herein-after directed.

6. Each advertisement is to state that all persons desirous of making to the board of trade any representation, or of bringing before them any objection, respecting the application, may do so by letter addressed to the secretary of the board of trade on or before the first day of August or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

7. Within one week after the publication of the latest advertisement a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

NOTICE TO LANDOWNERS.

8. In the case referred to in the foregoing act as the secondly-mentioned case the promoters, in the month of June or in the month of November (as the case may be) in which the advertisements are published, are to serve notice of the application on the owners of lands adjoining to the lands to which the application relates.

NOTICE OF OPPOSITION.

9. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

NOTICE OF SETTLEMENT OF DRAFT CERTIFICATE.

10. On the draft certificate being settled by the board of trade the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof as according to the circumstances of the case the board of trade direct.

SUPPLY OF COPIES OF DRAFT CERTIFICATE.

11. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

12. From the time of the settlement of the draft certificate by the board of trade the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

PRINTING OF CERTIFICATE.

13. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

RAILWAYS CONSTRUCTION FACILITIES, 1864.

27 & 28 Vict. Cap. 121. An Act to facilitate in certain Cases the obtaining of Powers for the Construction of Railways. [29th July, 1864.]

WHEREAS it is expedient to facilitate the making of branch and other lines of railway, and deviations of existing railways, and of railways in course of construction, and also the execution of new works connected with or for the purposes of existing railways :

And whereas the object aforesaid would be promoted if, where all landowners and other parties beneficially interested are consenting to the making of a railway or the execution of a work, the persons desirous of making or executing the same were enabled to obtain power to do so, on complying with the conditions of a general act of parliament, without being obliged to procure a special act :

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

- | | |
|--|--|
| Short title. | 1. This act may be cited as The Railways Construction Facilities Act, 1864. |
| Interpretation of terms.
"Lands."
"Promoters." | <p>2. In this act—</p> <p>The term "lands" includes any estate, right, or interest in lands :</p> <p>The term "the promoters" means in each case the company or persons intending to apply to the board of trade for such a certificate as is herein-after provided for, and, after the application is made, the company or persons actually making the application, as the case may require :</p> |
| "Railway." | The term "the railway" means in each case the railway and works intended by the promoters before issuing of the certificate, and after the issuing thereof, the railway and works therein comprised, as the case may require : |
| "Lands, Clauses Acts." | The term "the Lands Clauses Acts" means, so far as the enactment in which that term is used relates |
- 27 & 28 VICT. C. 121. i.

England, or to a certificate to be operative in England, The Lands Clauses Consolidation Act, 1845; and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, The Lands Clauses Consolidation (Scotland) Act, 1845; together with, in each case, The Lands Clauses Consolidation Acts Amendment Act, 1860; and so far as the same relates to Ireland, or to a certificate to be operative in Ireland, The Railways Act (Ireland) 1851, together with acts incorporated in or amending that act:

The term "the Companies Clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, The Companies Clauses Consolidation Act, 1845; and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, The Companies Clauses Consolidation (Scotland) Act, 1845; together with, in each case, The Companies Clauses Act, 1863:

The term "the Railways Clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, The Railways Clauses Consolidation Act, 1845; and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, The Railway Clauses Consolidation (Scotland) Act, 1845; together with, in each case, The Railways Clauses Act, 1863:

The term "Railway Bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorize the making of a railway:

The term "the Board of Trade" means the lords of the committee for the time being of her majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations.

Contracts for Lands.

3. Where promoters of a railway intend to apply, under this act, for authority to make the railway, they and all parties seised or possessed of or entitled to lands required for the railway shall, in order to the purchase or taking and sale of those lands for the railway, have all such powers and capacities as, in order to the purchase or taking and sale of lands required for an undertaking authorized by a special act of parliament, are conferred by the Lands Clauses Acts on the promoters of the undertaking so authorized and on parties seised or

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CAP. 121.

8 & 9 Vict.
c. 18.

8 & 9 Vict.
c. 19.

23 & 24 Vict.
c. 106.

14 & 15 Vict.
c. 70.

"Companies
Clauses
Acts."

8 & 9 Vict.
c. 16.

8 & 9 Vict.
c. 17.

26 & 27 Vict.
c. 118.

"Railways
Clauses
Acts."

8 & 9 Vict.
c. 20.

8 & 9 Vict.
c. 33.

26 & 27 Vict.
c. 92.

"Railway
Bill."

"Board of
Trade."

Power for
promoters of
railway and
all persons
interested in
land to enter
into provision-
al contracts for
land re-
quired.

27 & 28 VICT.
CAP. 121.

possessed of or entitled to lands, or any estate, right, or interest in lands, required for that undertaking; all which powers and capacities shall be enjoyed and may be exercised by the promoters, and by all such parties as aforesaid as fully and effectually in all respects as if the promoters had obtained a special act incorporating the Lands Clauses Acts, and authorizing them to make the railway, and to purchase or take the lands required for the same; subject, nevertheless, to the following restrictions and provisions; namely,

- (1.) Nothing herein shall confer on the promoters and parties aforesaid any of the powers or capacities conferred by the part of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, or by the part of those acts with respect to the entry upon lands by the promoters of the undertaking, or by such provisions of those acts as provide for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement, (except only as to such of those provisions as provide for the determination of the amount of compensation to be paid for enfranchisement of copyholds; and for the purposes of the present section, section 96 of The Lands Clauses Consolidation Act, 1845, relating to the enfranchisement of copyholds, shall be read and have effect as if the limitation of time therein contained were omitted therefrom):
- (2.) Any party under disability or incapacity, and not having power to sell and convey or release any lands, except under the Lands Clauses Acts, as applied by the present section, shall have capacity only to contract with the promoters for the sale of those lands, and shall not (before such a certificate of the board of trade, as is herein-after provided for, comes into operation) have capacity, further or otherwise than if this act had not been passed, to carry the contract into execution, or in pursuance thereof to convey or deliver possession of or release those lands:
- (3.) The promoters (before such a certificate as aforesaid comes into operation) shall be empowered by this act only to contract for lands, and they shall not have capacity, further or otherwise than if this act had not been passed, to take or hold lands.

4. Where lands required for the railway belong to or are enjoyed by her majesty the Queen, her heirs or successors, in right of the crown, or form part of the possessions of the duchy of Lancaster or of the duchy of Cornwall, any contract for the purposes of this act may be entered into in respect of those lands, as follows; namely,

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CAP. 121.

Contracts for sale of lands belonging to the crown or duchy of Lancaster or Cornwall.

In the first-mentioned case, by the commissioners of her majesty's woods, forests, and land revenues, or one of them, with the consent of the commissioners of her majesty's treasury;

In the secondly-mentioned case, by the chancellor of the duchy by writing under his hand attested by the clerk of the council of the duchy;

In the thirdly-mentioned case, by the duke of Cornwall or other the persons for the time being empowered to dispose for any purpose of lands of the duchy.

5. Notwithstanding anything in this act, it shall not be necessary for the promoters, before applying under this act for authority to make the railway, to enter into any contract with respect to any part of a turnpike road or public highway intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway; but the board of trade before they settle a draft of such a certificate as herein-after provided for, shall be satisfied that due provision is made for the interests of the trustees or other persons having the management of every such road or highway, and for the safety and convenience of the public in relation thereto.

User of or interference with public or turnpike roads.

Application for Certificate.

6. When the promoters have contracted for the purchase of all the lands required for the railway, and are desirous of obtaining a certificate under this act, they shall proceed as follows; namely,

After land contracted for, power for promoters to apply for certificate, publish Notices, &c.

(1.) They shall apply to the board of trade for a certificate under this act:

(2.) They shall deposit maps, plans, sections, and books of reference, and an estimate of the expense of the construction of the railway, and lodge a draft of the certificate as proposed by them, according to the general rules under this act:

(3.) They shall publish notice of the application according to such general rules.

7. As soon as conveniently may be after the time for completion of the required deposit and notice the board of trade shall proceed to inquire in such manner and to such extent as shall appear to them sufficient, whether

Consideration of application by board of trade.

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CAP. 121.

the promoters have contracted for the purchase of all the lands required for the railway, and to enquire whether the promoters have complied with the requirements of the general rules respecting deposit and notice.

Board of
trade to
consider all
representa-
tions and ob-
jections.

8. The board of trade, before settling the draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Under- taking.

On railway
or canal
company
affected
giving notice
of opposi-
tion pro-
ceedings be-
fore board
of trade to
cease.

9. If in any case any railway or canal company desire to be heard by counsel, agents, and witnesses against the proposed undertaking and (within such time as is prescribed by general rules under this act) lodge at the office of the board of trade a notice in writing to that effect (herein-after referred to as a notice of opposition) in the form set forth in the schedule to this act (with such variations as circumstances require), in that case the board of trade, if the railway or canal company lodging the notice would be affected in any way by the proposed undertaking, shall not proceed on the application of the promoters.

[Repealed
by 33 & 34
Vict., c. 19,
s. 2.]

Further
proceedings
to be in
parliament.

10. Where the board of trade do not proceed on the application, they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not then within seven days after the next meeting of parliament, lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.

[Repealed
by 33 & 34
Vict., c. 19,
s. 2.]

Settlement of Draft Certificate.

Power to
board of
trade to
settle cer-
tificate.

11. Where the board of trade proceed on the application, then on being satisfied that the promoters have contracted for the purchase of all the lands required for the railway, and have complied with the requirements of the general rules respecting deposit and notice, they may, if they think fit, settle a draft of a certificate certifying to the effect that the company, or persons therein specified, are authorized to make the railway therein described.

Insertion of
conditions in
certificate.

12. The board of trade may (subject to the provisions of this act) insert in the draft certificate such provisions,
27 & 28 VICT. c. 121. v.

as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate; and the same shall be deemed to all intents part of the certificate.

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CAP. 121.

13. The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid.

Form of
certificate.

Submission of Draft Certificate to Houses of Parliament.

14. The board of trade shall lay the draft certificate settled by them before both houses of parliament, within seven days after the same is settled, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

Draft certificate to be laid before houses of parliament.

15. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this act.

Notice thereof to be given.

16. If either house of parliament within six weeks after the draft of a certificate settled by the board of trade is laid before that house, resolves that the certificate ought not to be made, the same shall not be further proceeded with; and in that case all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

If either house resolve that certificate ought not to be made, it shall not be proceeded with.

Issue, Publication, and Effect of Certificate.

17. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired, the board of trade may make and issue a certificate in conformity with such draft.

If neither house resolve that certificate ought not to be made, board of trade may issue the same.

18. The certificate shall be published in the London or Edinburgh or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland; and shall be published both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

Publication of certificate in Gazette.

19. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents, as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

Operation of certificate as special act.

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CAP. 121.

Judicial
notice of
certificate.

Interpreta-
tion of cer-
tificate.

Cesser of
powers at
expiration
of prescri-
bed time.

20. The certificate shall be judicially noticed without being specially pleaded.

21. Terms used in the certificate shall have the same meanings as they have when used in this act.

Duration of Powers under Certificate.

22. If the company, or persons by the certificate empowered to make the railway do not within five years from the commencement of the operation of the certificate, or within any shorter period prescribed therein, complete the railway and open it for public traffic, then (subject to any provisions and qualifications in the certificate contained) all the powers and authorities given by the certificate shall, from and after the expiration of the time aforesaid, cease, except as to so much of the railway as is then completed.

Lands.

Incorporation of Lands
Clauses
Acts in cer-
tificate,
except pro-
visions
giving com-
pulsory
powers, &c.

23. The Lands Clauses Acts shall be incorporated with the certificate (which shall for this purpose be deemed the special act) except as may be therein excepted, and except as to the following provisions; namely,

- (1.) With respect to the purchase and taking of lands otherwise than by agreement :
- (2.) With respect to the entry upon lands by the promoters of the undertaking :
- (3.) So much of those acts as provides for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (but excluding from this exception so much of those acts as provides for the determination of the amount of compensation to be paid for enfranchisement of copyholds).

Incorporation of Company.

In what
cases com-
pany shall
be incor-
porated.

24. Where the promoters are not a company incorporated (by special act, or by previous certificate under this act, and are seven or more in number, a company shall be incorporated by the certificate, for the purposes thereof.

In others,
company
may be in-
corporated.

25. Where the promoters are not a company incorporated by special act, or by previous certificate under this act, and are less than seven in number, a company may be incorporated by the certificate for the purposes thereof, if the promoters so desire.

26. Where the certificate incorporates a company, it shall contain proper provisions with apt terms for creating a body corporate, by an appropriate name, with perpetual succession and a common seal, and with power to take, hold, and dispose of lands and other property, for the purposes and subject to the restrictions of the certificate, and may confer on the company power to borrow on mortgage, and all other usual or proper powers.

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CAP. 121.

Power for board of trade to incorporate company by certificate.

27. In every such case, the Companies Clauses Acts shall be incorporated with the certificate (which shall be deemed the special act).

Incorporation of Companies Clauses Acts.

28. It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

Restriction as to issue of shares.

29. Every company, whether incorporated by special act or by certificate, empowered by a certificate to borrow money, shall, as regards the money so authorized to be borrowed, be subject to the following restrictions; namely,

Restrictions on company as to borrowing, &c

(1.) They shall not exercise the said powers of borrowing any money until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one half thereof is actually paid up, and until they prove to the justice who is to certify under section 40 of The Companies Clauses Consolidation Act, 1845, or (in Scotland) to the sheriff who is to certify under section 42 of The Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares were taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence):

(2.) They shall not borrow a larger sum in the whole than one third of the amount of the share capital authorized by the certificate;

(3.) They shall not out of money raised under the 27 & 28 VICT. C. 121. viii.

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CAP. 121.

certificate by calls or borrowing pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise; (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made, as is allowed by the Companies Clauses Acts):

- (4.) They shall not out of money so raised pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:
- (5.) They shall apply every part of the money so raised only for purposes for which it is by the certificate authorized to be applied.

Contracts by
promoters
binding on
company.

30. Contracts relative to the purchase or taking of lands for the railway, entered into by the promoters before the incorporation of the company by the certificate, shall be as binding on the company as if they had been entered into by the company.

Construction of Railway.

Incorporation of Railways Clauses Acts in certificate, except as to compulsory powers, &c.

31. The Railways Clauses Acts shall be incorporated with the certificate (which shall be deemed the special act), except as may be therein excepted, and except as to the following provisions; namely,

- (1.) Such of the provisions with respect to the construction of the railway and the works connected therewith as relate to the correction of errors and omissions in plans or to plans and sections of alterations:
- (2.) With respect to the temporary occupation of lands near the railway during the construction thereof:
- (3.) With respect to leasing the railway: and subject to the following provisions; namely,
 - (1.) Nothing herein shall confer power for the taking or using of lands for deviation or for any other purpose, otherwise than by agreement:
 - (2.) Any provision referring to the datum line described in the section approved of by parliament shall be read as referring to the datum line described in the section approved of by the board of trade.

Restriction on alterations of plan or section.

32. Where the promoters desire to make any alteration in the deposited plan or section, they may do so with the consent of the board of trade; but the board of trade shall not settle a draft of a certificate without

being satisfied that all parties interested in lands liable to be affected by or in consequence of the alteration consent thereto.

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CAP. 121.

33. *Every railway made under this act in England or Scotland shall be made on the gauge of four feet eight inches and half an inch, unless in any case the certificate prescribes the making of the railway on the gauge of seven feet or on both those gauges.*

Provision
respecting
gauge.
[Repealed
by 33 & 34
VICT., c. 19,
s. 5.]

Every railway made under this act in Ireland shall be made on the gauge of five feet three inches.

Provisions to secure Completion of Railway.

34. After the certificate is ready to be issued, and before the same is issued, by the board of trade, the promoters, unless they are a previously existing company possessed of a railway open for public traffic, shall, within such time as general rules under this act direct, pay as a deposit a sum of money not less than eight per centum on the amount of their estimate of the expense of the construction of the railway, as follows; namely,

Promoters
to deposit
eight per
cent. on
estimate in
court of
chancery,
&c.

Where the railway or any part thereof will be situate in England,—into the bank of England, in the name and with the privity of the accountant general of the court of chancery in England:

Where the railway will be situate wholly in Scotland,—either into the bank of England in manner aforesaid, or (at the option of the promoters) into a bank in Scotland established by act of parliament or royal charter, in the name and with the privity of the queen's remembrancer of the court of exchequer in Scotland:

Where the railway will be situate in Ireland,—into the bank of Ireland, in the name and with the privity of the accountant general of the court of chancery in Ireland.

35. The board of trade may issue their warrant to the promoters for such payment into court, which warrant shall be a sufficient authority for the persons therein named, or the majority or survivors of them, to pay the money therein mentioned into the bank therein mentioned, in the name and with the privity of the officer therein mentioned, and for that officer to receive the same, to be placed to his account there, *ex parte* the railway therein mentioned, according to the method (prescribed by statute, or general rules or orders of court, or otherwise,) for the time being in force respecting the payment of money into the said courts respectively, and without fee or reward.

Warrant of
board of
trade for
payment
into court.

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Liberty for
promoters to
bring in
exchequer
bills, &c.

Provision for
vacations in
offices of
courts.

Power for
court to
direct in-
vestment.

Interpreta-
tion of "de-
posit fund"
and "depo-
sitors" in
following
provisions.

Repayment
of deposit
on comple-
tion of rail-
way or on
terms.

36. Provided, that in lieu, wholly or in part, of the payment of money, the promoters may bring into court as a deposit an equivalent sum of bank annuities, or of any stocks, funds, or securities on which cash under the control of the respective court is for the time being permitted to be invested, or of Exchequer bills, (the value thereof being taken at the price at which the promoters originally purchased the same, as appearing by the broker's certificate of that purchase); and in that case the board of trade shall vary their warrant accordingly.

37. At any time when the office of the accountant general of the Court of Chancery in England or Ireland is closed, a deposit under this act may nevertheless be made, in such manner as general orders of the respective courts authorize and direct.

38. Where money is so paid into the court of chancery in England or Ireland, the court may, on the application of the persons named in the warrant of the board of trade, or of the majority or survivors of them, order that the same be invested in such stocks, funds, or securities as the applicants desire and the court thinks fit.

39. In the subsequent provisions of this act, the term "the deposit fund" means the money deposited, or the stocks, funds, or securities in which the same is invested, or the bank annuities, stocks, funds, securities, or exchequer bills deposited, as the case may be; and the term "the depositors" means the persons named in the warrant of the board of trade authorizing the deposit, or the majority or survivors of those persons, their executors administrators, or assigns.

40. The court in which the deposit is made shall, on the application of the depositors, order the deposit fund to be paid, transferred, or delivered out to the applicants, or as they direct, in any of the following events: namely,

- (1.) If, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company, or persons thereby empowered to make the railway, complete it and open it for public traffic; or
- (2.) If, within the same time, they (being a company) prove to the satisfaction of the board of trade that one half of their nominal capital authorized by the certificate is paid up, and that they have expended a like amount for the purposes of the certificate; or
- (3.) If, at any time after the issuing of the certificate, they execute and deliver to the solicitor of her

majesty's treasury a bond with a surety or sureties (such bond being prepared to the satisfaction of, and such surety or sureties being approved by, the said solicitor) in a penal sum of twice the amount of the money required to be deposited, conditioned to the effect following, namely,—for payment to her majesty, her heirs or successors, of the amount of the money required to be deposited, if the company or persons empowered by the certificate do not, within the time aforesaid, either complete the railway and open it for public traffic, or (being a company) give such proof as aforesaid respecting their capital and expenditure.

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CAP. 121.

41. If the company, or persons empowered by the certificate to make the railway do not, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, do one or other of the following things, namely,—

Forfeiture of
deposit on
non-comple-
tion of rail-
way, &c.

- (1.) complete the railway and open it for public traffic; or
- (2.) give (being a company) such proof as herein-before mentioned respecting their capital and expenditure; or
- (3.) execute and deliver such a bond as is herein-before described,—

then and in every such case the deposit fund shall, from and after the expiration of the time aforesaid, be forfeited to her majesty, and shall accordingly be paid, transferred, or delivered out to or for the account of her majesty's exchequer, in such manner as the court in which the deposit is made thinks fit to order, on the application of the solicitor of her majesty's treasury, on notice to such parties (if any) as the court thinks fit; and the deposit fund, when so paid, transferred, or delivered, or the proceeds thereof, shall be carried to and form part of the consolidated fund of the United Kingdom.

42. Where any such bond as aforesaid is given, the amount recovered thereon shall be paid to the account of her majesty's exchequer, and shall be carried to and form part of the said consolidated fund.

Application
of money
recovered on
bond.

43. The depositors shall be entitled to receive payment of the interest or dividends from time to time accruing on the deposit fund while in court; and the court in which the deposit is made may from time to time, on the application of the depositors, make such order as

Depositors
to receive
dividends
accruing
while fund
in court.

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CAP. 121,

seems fit respecting the payment of the interest or dividends accordingly.

Proofs as to
capital and
expenditure,
execution of
bond, &c.

44. The certificate of the board of trade that such proof as aforesaid respecting the capital and expenditure of any company has been given to the satisfaction of the board of trade, and the certificate of the solicitor of her majesty's treasury that such bond as aforesaid has in any case been prepared, executed, and delivered to his satisfaction, shall respectively be sufficient evidence of the matters therein certified.

Protection to
board of
trade in
case of
error, &c.

45. The issuing in any case of any warrant or certificate relating to deposit or to the deposit fund, or any error in any such warrant or certificate or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the deposit fund, or the interest of or dividends on the same, or any part thereof respectively.

Mode of ap-
plication to
courts.

46. Any application under this act to the court of chancery in England or Ireland shall be made in a summary way in such manner as general orders of those courts respectively direct.

Power for
courts to
make gene-
ral orders.

47. The lord chancellor of Great Britain with the advice and assistance of the lords justices of the court of appeal in chancery and the master of the rolls and the vice chancellors, or any two of those judges, and the lord chancellor of Ireland with the advice and assistance of the lord justice of the court of appeal in chancery in Ireland and of the master of the rolls in Ireland, may respectively from time to time make such general orders as seem fit for the regulation of the practice under this act of the court of chancery in England and Ireland respectively.

Penalty on
company
failing to
open new
railway in
certain
cases.

48. Where a certificate is obtained by a previously existing company possessed of a railway open for public traffic, then, if the company fail to complete the railway and open it for public traffic within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company shall be liable to a penalty of not less than twenty pounds and not exceeding fifty pounds for every day during which such failure continues, except only in respect of any time during which it appears from a certificate of the board of trade that the company were prevented from completing the railway or opening it for public traffic by unforeseen accident or circumstances beyond their control, but the want of sufficient funds shall not be deemed a circumstance beyond their control within the meaning of this provision.

Tolls and Charges for Use of Railway.

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CAP. 121.

49. The proprietors of the railway may demand and take, in respect of the railway, tolls and charges not exceeding the sums specified in the schedule to this act, subject and according to the regulations therein specified

Tolls, &c. in
schedule.

50. The board of trade may nevertheless by the certificate vary the tolls and charges and regulations specified in the schedule to this act, or any of them, if in any case it seems to them necessary or proper, under the circumstances, to do so.

Power for
board of
trade to
vary tolls,
&c.

Application of General Railway Acts.

51. The enactments described in the schedule to this act, and any enactments amending, perpetuating, or otherwise affecting any of them, so far as the same are in force at the passing of this act, shall extend and apply, as the case may require, to the railway, and to the company or persons empowered by the certificate to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in this act, subject, nevertheless, and according to the following variations and provisions; namely,

Enactments-
in schedule
applied to
the railway
and com-
pany, sub-
ject to varia-
tions.

- (1.) For the purposes and within the meaning of any of those enactments, the railway shall be deemed to be a railway made and constructed and carried on under the authority of parliament and under the powers and provisions of an act of parliament, and the certificate (taken in conjunction with this act) shall be deemed to be a special act of parliament regulating or relating to the railway, or the company, body, or persons empowered to make the same (as the case may require):
- (2.) Such of those enactments as refer to the time of the passing of an act of parliament for the construction of a railway, or to the last day of the session in which such an act is passed, shall respectively be read and have effect as referring to the time of the commencement of the operation of the certificate:
- (3.) The terms "company" and "railway company" used in any of those enactments shall respectively include any persons empowered by the certificate to make the railway:
- (4.) Such of those enactments as refer to the directors, or any director, or the secretary, chief or other clerk, accountant, treasurer, or other officer of a company, shall extend and apply to every or any

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- one of the persons (not being a company), empowered by the certificate to make the railway :
- (5.) Such of those enactments as refer to a writing under the common seal of the company shall be read and have effect as referring to a writing under the hand and seal of any one of such persons, as aforesaid :
 - (6.) Such of those enactments as impose any penalty or forfeiture, or any pecuniary liability or any obligation, on a company, or give any right, remedy, or process against a company, shall be read and have effect (so far as the nature and circumstances of the case admit) as imposing a like penalty, forfeiture, liability, or obligation on, or as giving a like right, remedy, or process against, every or any one of such persons, as aforesaid, but not so as to authorize the recovery of any penalty or forfeiture from, or the enforcement of any pecuniary liability against, more than one of such persons in respect of the same offence, matter, or thing :
 - (7.) The amount of any compensation to be made to the owners and occupiers of any lands for loss or injury or inconvenience sustained by them respectively by reason of any works done under the authority of any of those enactments shall, in case of dispute, be settled in manner directed by the Lands Clauses Acts and the Railways Clauses Acts as respectively applicable to the case :
 - (8.) Such of those enactments as provide for the case of the board of trade certifying that the public safety requires additional land to be taken by a company for the purpose of giving increased width to the embankments or inclination to the slopes of the railway, or for making approaches to bridges or archways, or for doing works for the repair or prevention of accidents or slips happening or apprehended to the cuttings, embankments, or other works of the railway, shall be read and have effect, as regards such portions of land as are mentioned in any certificate so given by the board of trade, as if compulsory powers of purchasing and taking lands had been contained in the certificate under this act authorizing the making of the railway, and the provisions of the Lands Clauses Acts and the Railways Clauses Acts relative to the compulsory purchase or taking of land had been incorporated with that certificate .

- (9.) If the railway is in any respect constructed contrary to the provisions of the certificate, or of this act, it shall be deemed to be constructed contrary to the provisions of any of those enactments applicable in the case : 27 & 28 VICT. CAP 121.
- (10.) Nothing herein shall extend or make applicable, for the purposes of this act, to or in any one of the parts of the United Kingdom, any of those enactments not in force there independently of this act.

Miscellaneous.

52. Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application of the promoters should not be complied with ; and in case the board of trade reject any application, all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party. Board of trade may reject the application.

53. Nothing in the certificate shall exempt the railway, or the company, or persons to whom it belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration, under the authority of parliament, of the maximum tolls and charges allowed to be taken under the certificate. Saving for general acts, or revision of charges.

54. All the provisions of this act which relate to the making of a railway shall extend and apply, mutatis mutandis, to the making or executing of any work connected with or for the purposes of a railway (as distinguished from the construction of a railway). New works in connexion with railway.

55. Subject and according to the provisions of this act, the board of trade may, on a joint application or on two or more separate applications, issue a certificate empowering two or more companies, or persons, respectively, to jointly make or execute the whole, or to separately make or execute parts, of a work connected with or for the purposes of a railway, and to jointly or separately use the whole or parts thereof ; and all the provisions of this act which relate to the making of a railway, or the making or executing of a work, shall extend and apply to the making or executing of the whole and the separate parts of such work as last aforesaid ; and the form of the certificate may be adapted to the circumstances of the case. Power to authorize joint work.

56. Where the certificate is obtained by a previously Power to
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promoters,
being a
company, to
raise addi-
tional capi-
tal.

existing company incorporated by special act or by certificate, the certificate may authorize the company to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

In every such case the Companies Clauses Acts shall be incorporated with the certificate.

In every such case the restrictions by this act imposed on a company when originally incorporated by certificate, with respect to the exercise of their borrowing power and to the application of money raised under the certificate by calls or borrowing, shall extend and apply to such previously existing company in respect of such additional capital.

Where pro-
motors are
a company,
approval of
application
by a meet-
ing.

57. Where the certificate is obtained by a previously existing company incorporated by special act or by certificate, it shall be the duty of the board of trade not to settle a draft of the certificate without being satisfied that the members of the company have approved of the application to the board of trade, in like manner as, under the standing orders of either house of parliament for the time being in force, their approval of a railway bill would be required to be given in the same case.

Power to
board of
trade to
amend or
revoke cer-
tificate.

58. Subject and according to the restrictions and provisions of this act, the board of trade, on the application of any company or persons empowered by a certificate, may from time to time amend, extend, or vary by certificate the previous certificate, and may by certificate revoke the previous certificate.

Power to
correct
error.

59. If in any case it is made to appear to the board or trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of any company, body, or person affected by the error, and on notice to the company or persons empowered by the certificate, correct the error by a further certificate.

Proof of
certificate.

60. A copy of the London, Edinburgh, or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate, and of the due publication thereof, without any proof of the Gazette, or without any proof of the copy having been in fact so printed, as the case may be.

61. The company or persons empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the Gazette or one of the Gazettes in which the same was published, in such form as general rules under this act direct, to be sold to all persons desiring to buy the same, at a price not exceeding one shilling for each copy.

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Copies of
certificate
for sale.

If any company or persons fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

62. Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under the Railways Clauses Acts are recoverable and applicable.

Recovery
and applica-
tion of pe-
nalties.

63. The act of the session of the seventh year of king William the fourth and the first year of her majesty, (chapter eighty-three,) "to compel Clerks of the Peace and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this act.

As to
custody of
documents
under
7 W. 4. &
1 Vict. c. 83.

64. The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering, or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament, and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act.

General
rules in
schedule
with power
for amend-
ment.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

65. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past.

Annual
report to
parliament
by board of
trade.

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The SCHEDULE referred to in the foregoing Act.

[Part (i.)
Repealed
by 33 & 34
Vict., c. 19,
s. 2.]

(i.)—*Notice of Opposition.*

*In the matter of
The Railways Construction Facilities Act, 1864,
and*

The (proposed)

Railway.

We, the railway [or canal] company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the above-mentioned proposed undertaking.

Dated this day of , 18 .

Witness, A.B.

L.S.

(ii.)—**FORM OF CERTIFICATE OF BOARD OF TRADE.**

The

Railway.

**Certificate of the board of trade for the construction of
the railway.**

Whereas the promoters of the railway have contracted for the purchase of the lands required for the railway and the works connected therewith, and have complied with the requirements of The Railways Construction Facilities Act, 1864:

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[Here are to follow the provisions of the certificate showing the powers conferred and the terms and conditions (if any) imposed.]

The board of trade,

(Signed) C.D.

Whitehall.

Secretary to the board of trade.

Dated this day of

(iii.)—TOLLS AND CHARGES.

TABLE I.

Maximum Charges for Use of Railway and Supply of Carriages, Waggon, or Trucks.

	For use of railway, per mile.	For supply of carriage, waggon, or truck by the proprietors of the railway, the additional sum per mile of
Passengers :—		
For every person	Twopence.	One penny.
Animals :—		
For every horse, ass, mule, or other beast of draught or burden (Class 1.)	Threepence.	One penny.
For every ox, cow, bull, or head of neat cattle (Class 2.)	Twopence.	One penny.
For every calf, pig, sheep, lamb, and other small animal (Class 3.)	Three Farthings.	One Farthing.
Goods (except as provided for in Table IV.) :—		
For cotton and other wools, manufactured goods, drugs, fish, and all other wares, merchandise, articles, matters, or things not enumerated in any other class (Class 4.) per ton	Threepence.	One penny
For sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, and metals (except iron), nails, anvils, vices, chains, and light iron castings (Class 5.) per ton	Twopence Halfpenny.	One penny.
For coke, charcoal, pig iron, bar iron, rod iron, sheet iron, hoop iron, plates of iron, wrought iron, heavy iron castings, railway chains, slabs, billets, and rolled iron, lime, bricks, tiles, slates, salt, fireclay and stone (Class 6.) per ton	Three Halfpence.	One penny.
For dung, compost, manure, undressed material for repair of public roads or highways, coals, culm, cinders, cannel, ironstone, iron ore, limestone, clay (except fireclay) chalk, sand, and slag. (Class 7.) per ton	Five Farthings.	One Halfpenny.
For every carriage of whatever description conveyed on a truck or platform belonging to the proprietors of the railway (Class 8.) :—		
If not weighing more than one ton	Sixpence.	
If weighing more than one ton, then for the first ton	Sixpence.	
And for every additional quarter of a ton, or fractional part of a quarter of a ton, above the first ton	Three Halfpence.	

TABLE II.

Maximum Charges for Supply of Locomotive Power.

For the use of engines for propelling carriages on the railway, for every passenger, animal, and ton of goods per mile one penny

TABLE III.

Maximum total Charges for Use of Railway and Supply of Carriages, Waggon, or Trucks, and Supply of Locomotive Power, and every other Expense incidental to Conveyance of Passengers, Animals, or Goods along the Railway.

Passengers :—				Per Mile.
For every person conveyed in a first-class carriage				Threepence.
"	"	second-class "	"	Twopence.
"	"	third-class "	"	Five farthings.
Animals :—				
For every animal in class 1.				Fourpence.
"	Class 2.	"	"	Threepence.
"	Class 3.	"	"	Three halfpence.
Goods :—				
For every thing in Class 4.				Fourpence.
"	Class 5.	"	per ton	Threepence.
"	Class 6.	"	per ton	Twopence.
"	Class 7.	"	per ton	Three halfpence.
For every carriage in Class 8.				The charge specified in Table I.

TABLE IV.

Maximum Charges for small Packages and single Articles of great Weight.

Small packages :—		
For every parcel not exceeding seven pounds in weight		Sixpence.
„ exceeding seven pounds, but not exceeding fourteen pounds, in weight		Eightpence.
„ exceeding fourteen pounds, but not exceeding twenty - eight pounds, in weight		One shilling.
„ exceeding twenty-eight pounds, but not exceeding fifty-six pounds, in weight	}	One shilling & threepence
„ exceeding fifty-six pounds, but not exceeding five hundred pounds, in weight, for the first fifty-six pounds		
		One shilling.

And for every additional fifty-six pounds, or fractional part of fifty-six pounds, above the first fifty-six pounds . . .

Sixpence.

Single articles of great weight :—

For every boiler, cylinder or single piece of machinery, timber or stone, or other single article :

If weighing (inclusive of the carriage) more than four but not more than eight tons, sixpence per ton per mile.

If weighing (inclusive of the carriage) more than eight tons, such sum as the proprietors of the railway think fit.

REGULATIONS.

1. For passengers, animals, or goods conveyed on the railway for a distance less than that prescribed in the certificate as the short distance, and if none is prescribed then for a distance less than six miles, charges are to be payable as for the short distance prescribed, and if none is prescribed then as for six miles. Short distance charge.

2. In respect of passengers, every fraction of a mile beyond an integral number of miles is to be deemed a mile. Fraction of mile; passengers.

3. In respect of animals and goods, for a fraction of a mile beyond the short distance prescribed, or if none is prescribed then beyond six miles, or beyond any greater number of miles, charges are to be payable in proportion to the number of quarters of a mile contained in that fraction; and a fraction of a quarter of a mile is to be deemed a quarter of a mile. Fraction of mile; animals and goods.

4. For a fraction of a ton charges are to be payable according to the number of quarters of a ton in that fraction; and a fraction of a quarter of a ton is to be deemed a quarter of a ton. Fraction of ton.

5. Every passenger travelling on the railway may, without charge, cause to be carried in the same train with him his ordinary luggage, not exceeding the weight prescribed in the certificate, and if none is prescribed then not exceeding the weight of one hundred and twenty pounds for a first-class passenger. One hundred pounds for a second-class passenger, and sixty pounds for a third-class passenger. Passengers luggage.

6. The restriction as to charges for passengers does not extend to special trains when required by passengers, but applies only to the ordinary or express passenger or goods trains appointed by the proprietors of the railway. Special trains.

7. Except as to stone and timber, weight is to be determined according to avoirdupois weight. Determination of weight.

Fourteen cubic feet of stone, and forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any
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other timber, are to be deemed one ton, and so in proportion for any smaller quantity.

Terminal
station
charges.

8. In addition to the charges in Table III., a reasonable charge is to be payable for the loading, covering, and unloading of goods at any station, being a terminal station in respect of such goods, and for delivery and collection, and any other services incidental to the duty or business of a carrier, where such services, or any of them, are or is performed by the proprietors of the railway.

A station is not to be considered a terminal station in respect of goods, unless they are received there direct from the consignor, or are directed to be delivered there to the consignee.

Small
packages.

9. The term small packages does not include articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like: but applies only to single parcels in separate packages.

Agreement
for higher
charges.

10. Nothing herein or in the certificate contained is to prevent the proprietors of the railway from taking any charge over and above the charges herein-before limited for the conveyance of goods of any description by agreement with the owners of or any persons in charge of such goods, either in respect of the conveyance thereof (except small packages) by passenger trains, or by reason of any other special service performed by the proprietors of the railway in relation thereto.

(iv.)—ENACTMENTS IN GENERAL ACTS RELATING TO RAILWAYS APPLIED TO RAILWAYS UNDER THIS ACT.

Session and Chapter, and

Section (if any).

"Title or Short Title of Act."

- 1 & 2 Vict. c. 80.—"An act for the payment of constables for keeping
"the peace near public works."
1 & 2 Vict. c. 98.—"An act to provide for the conveyance of the mails
"by railways."
2 & 3 Vict. c. 45.—"An act to amend an act of the fifth and sixth
"years of the reign of his late majesty king William the Fourth
"relating to highways."
3 & 4 Vict. c. 97.—"An act for regulating railways."
5 & 6 Vict. c. 55.—"An act for the better regulation of railways, and
"for the conveyance of troops."
5 & 6 Vict. c. 79, ss. 2 to 7 (both inclusive), and ss. 24, 25, 26.—"An
"Act to repeal the duties payable on stage carriages, and on pas-
"sengers conveyed upon railways, and certain other stamp duties
"in Great Britain, and to grant other duties in lieu thereof; and
"also to amend the laws relating to stamp duties."
7 & 8 Vict. c. 85.—"An act to attach certain conditions to the con-
"struction of future railways authorized or to be authorized by
"any act of the present or succeeding sessions of parliament, and
"for other purposes relating to railways."
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- 8 & 9 Vict. c. 3.—“An act for the appointment of constables or other officers for keeping the peace near public works in Scotland.”*
- 8 & 9 Vict. c. 46.—“An act for the appointment of additional constables for keeping the peace near public works in Ireland.”
- 9 & 10 Vict. c. 57, ss. 4, 6, 7, 8.—“An act for regulating the gauge of railways.”
- 10 & 11 Vict. c. 85, s. 16.—“An act for giving further facilities for the transmission of letters by post, and for the regulating the duties of postage thereon, and for other purposes relating to the post office.”
- 14 & 15 Vict. c. 64.—“An act to repeal the act for constituting commissioners of railways.”
- 17 & 18 Vict. c. 31.—“The Railway and Canal Traffic Act, 1854.
- 18 & 19 Vict. c. 122, s. 6.—“An act to amend the laws relating to the construction of buildings in the metropolis and its neighbourhood.”
- 20 & 21 Vict. c. 31, s. 4.—“An act to amend and explain the Inclosure Acts.”
- 21 & 22 Vict. c. 75.—“An act to amend the laws relating to cheap trains, and to restrain the exercise of certain powers by canal companies, being also railway companies.”
- 22 & 23 Vict. c. 59.—“Railway Companies Arbitration Act, 1859.”
- 26 & 27 Vict. c. 33, ss. 13, 14.—“An act for granting to her majesty certain duties of inland revenue, and to amend the laws relating to the inland revenue.”
- 26 & 27 Vict. c. 112, s. 32.—“The Telegraph Act, 1863.”

*[This Act (the 8 & 9 Vict. c. 3) was repealed by the 20 & 21 Vict. c. 72, s. 9; the existing enactment is the 21 & 22 Vict. c. 65.]

(v.)—GENERAL RULES.

FORM OF APPLICATION.

1. The application to the board of trade for a certificate is to be made by a memorial in writing, signed by the promoters, or some or one of them, and lodged at the office of the board of trade.
2. Together with the memorial the promoters are to lodge—
 - (a.) A printed draft of the certificate as proposed by the promoters :
 - (b.) An estimate of the expense of the construction of the proposed new railway or work (if any), signed by the person making the estimate.

PLANS, SECTIONS, &c.

3. Maps, plans, sections, and books of reference deposited by the promoters are to be such, in respect of scale and contents and otherwise, as, under the standing orders of either house of parliament for the time being in force, they would be obliged to deposit if they were proceeding in the same case by a railway bill.

4. The maps, plans, sections, and books of reference aforesaid are to be deposited at the office of the board of trade at the time when the memorial is lodged there.

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5. They are also to be deposited for public inspection at the same offices of the clerks of the peace or sheriff clerks, at which, under the standing orders aforesaid, the promoters would be obliged to deposit them if they were proceeding in the same case by a railway bill.

6. Where any part of the railway will be situate within the limits of the metropolis, as defined by The Metropolis Management Act, 1855, a copy of so much of the plans and sections as relates to that part is to be deposited at the office of the metropolitan board of works.

7. A copy of so much of the plans and sections as relates to each parish in which any part of the railway will be situate, or in which any lands intended to be taken for the railway are situate, together with a copy of so much of the book of reference as relates to that parish, is to be deposited for public inspection with the officer or person with whom, under the standing orders aforesaid, the promoters would be obliged to deposit the same if they were proceeding in the same case by a railway bill.

ADVERTISEMENTS AS TO APPLICATION.

8. After all the deposits aforesaid have been made, notice of the application to the board of trade is to be given by advertisement published as follows, namely:—

Where the railway will be situate wholly in one county, city, or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of that county, city, or town, or county of a city or town:

Where the railway will not be situate wholly in one county, city, or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of the county, city, or town, or county of a city or town, wherein the head office of the promoters is situate, and also once in each of three successive weeks in some one and the same newspaper of each county, city, or town, or county of a city or town, wherein any part of the railway will be situate:

If in any case there is not any such newspaper as herein-before described, then in like manner in a newspaper of some adjoining or neighbouring county:

In every case, once at least in the London, Edinburgh, or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland; and both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

9. The advertisements are to be published either in the month of June or in the month of November and not at any other time.

10. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as herein-after directed.

11. Each advertisement is to state that all persons desirous of making any representation to the board of trade, or of bringing before them any objection, respecting the application, may do so by letter addressed to the secretary of the board of trade, on or before the first day of August or first day of January next succeeding the date of the

advertisement, according as the same is published in the month of June or in the month of November.

DEPOSIT OF COPIES OF ADVERTISEMENTS.

12. Within one week after the publication of the latest advertisement, a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

13. Within the same time, a printed copy of the gazette advertisement is to be deposited for public inspection in each of the same offices, and with each of the same officers and persons, in which or with whom the maps, plans, sections, and books of reference or parts thereof were deposited.

14. The last-mentioned deposit of a copy of the gazette advertisement may be made (if the promoters choose) by means of a registered post letter, and any deposit so made shall be deemed made on the day on which such letter would be delivered in ordinary course of post.

NOTE OF TIME OF DEPOSIT.

15. Where any document is deposited under these rules for public inspection, the clerk of the peace, sheriff clerk, or other officer or person, in whose office or with whom it is deposited, is to make thereon a memorial in writing denoting the time at which it was deposited.

NOTICE TO ROAD TRUSTEES.

16. Where any part of a turnpike road or public highway is intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway, the promoters in the month of June or November (as the case may be) in which the advertisements are published are to serve notice of the application on the trustees or other persons having the management of such road or highway.

NOTICE OF OPPOSITION.

17. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

NOTICE OF SETTLEMENT OF DRAFT CERTIFICATE.

18. On the draft certificate being settled by the board of trade, the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person, by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof, as according to the circumstances of the case the board of trade direct.

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SUPPLY OF COPIES OF DRAFT CERTIFICATE.

19. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement, a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

20. From the time of the settlement of the draft certificate by the board of trade, the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

DEPOSIT OF MONEY.

21. The deposit of money or government securities in court is to be made within one month after notice from the board of trade that they are prepared to issue the certificate.

PRINTING OF CERTIFICATE.

22. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

IRISH BANKRUPT AND INSOLVENT AMENDMENT, 1865.

28 & 29 Vict. Cap. 21. An Act to amend the
Irish Bankrupt and Insolvent Act, 1857.

[9th May, 1865.]

WHEREAS it is expedient to provide that railway companies incorporated by act of parliament shall not be liable to be adjudicated bankrupt: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

1. From and after the passing of this act, no railway company incorporated by act of parliament shall be liable to be made bankrupt under the Irish Bankrupt and Insolvent Act, 1857, and the provisions of the said act which relate to the bankruptcy of joint stock companies shall not apply to railway companies so incorporated as aforesaid.

No railway company incorporated by parliament liable to be made bankrupt under 20 & 21 Vict. c. 60

2. Nothing herein contained shall affect any adjudication of the bankruptcy of any such railway company made or to be made on any petition for adjudication presented on or before the first day of April one thousand eight hundred and sixty-five, or the proceedings thereunder; it being, however, hereby declared, that no person, company, or body corporate, by reason of his or their being a shareholder or shareholders of any railway company made bankrupt under any such adjudication of bankruptcy, is or shall be liable to pay or contribute any sum beyond the extent of his or their shares in the capital of the company not paid up at the time of such adjudication.

Not to affect any adjudication of bankruptcy already made.

3. This act may be cited for all purposes as The Irish Bankrupt and Insolvent Amendment Act, 1865.

Short title.

4. This act shall extend to Ireland only.

To extend to Ireland only.

PRIVATE BILL COSTS, 1865.

28 & 29 Vict. Cap. 27. An Act for awarding Costs
in certain cases of Private Bills.

[26th May, 1865.]

WHEREAS it is expedient to empower committees of both houses of parliament on private bills to award costs in certain cases: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

When committee report "Preamble not proved," opponents to be entitled to recover costs.

1. When the committee on a private bill shall decide that the preamble is not proved, or shall insert in such bill any provision for the protection of any petitioner, or strike out or alter any provision of such bill for the protection of such petitioner, and further unanimously report, with respect to any or all of the petitioners against the bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the bill, such petitioner or petitioners shall be entitled to recover from the promoters of such bill his or their costs in relation thereto, or such portion thereof as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or the committee may award such a sum for costs as they shall think fit, with the consent of the parties affected.

When committee report unanimously "Opposition unfounded," promoters to be entitled to recover costs.

2. When the committee on a private bill shall decide that the preamble is proved, and further unanimously report that the promoters of the bill have been vexatiously subjected to expense in the promotion of the said bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the committee shall think fit, such portion of their costs of the promotion of the bill as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or such a sum for costs as the committee shall name, with the consent of the parties affected; and in their report to the house the committee shall state what portion of the costs, or what sum for

costs, they shall so think fit to award, together with the names of the parties liable to pay the same and the names of the parties entitled to receive the same: provided always, that no landowner who bona fide at his own sole risk and charge opposes a bill which proposes to take any portion of the said petitioner's property for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

28 & 29 VICT.
CAP. 27.

Proviso.

3. On application made to the taxing officer of the house by such promoters or petitioners, or by their solicitors or parliamentary agents, not later than six calendar months after the report of such committee, and in cases where no sum shall have been named by the committee, with the consent of the parties affected, not until one month after a bill of such costs shall have been delivered to the party chargeable therewith, which bill shall be sealed with the seal or subscribed with the proper hand of the parties claiming such costs, or of their solicitor or parliamentary agent, the taxing officer shall examine and tax such costs, and shall deliver to the parties affected, or either or any of them, on application, a certificate signed by himself expressing the amount of such costs, or in cases where a sum for costs shall have been named by the committee, with the consent as aforesaid, such sum as shall have been so named, with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such certificate shall be conclusive evidence as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Costs to be
taxed.

4. All powers given to the taxing officer by the acts ten and eleven Victoria, chapter sixty-nine, and twelve and thirteen Victoria, chapter seventy-eight, with reference to the examination of parties and witnesses on oath, and with reference to the production of documents, and with reference to the fees payable in respect of any taxation, shall be vested in the taxing officer for the purposes of this act.

Powers of
taxing
officer.
10 & 11 Vict
c. 69.
12 & 13 Vict.
c. 78.

5. The party entitled to such taxed costs, or such sum named by the committee, with such consent as aforesaid, or his executors or administrators, may demand the whole amount thereof, so certified as above, from any one or more of the persons liable to the payment thereof, and in case of nonpayment thereof on demand may recover the same by action of debt in any of her majesty's courts of record at Westminster or Dublin, or by action in the
28 & 29 VICT. c. 27. ii.

Recovery of
costs when
taxed.

28 & 29 VICT. CAP. 27. court of session in Scotland. In such action it shall be sufficient, in England or Ireland, for the plaintiff to declare that the defendant is indebted to him in the sum mentioned in the said certificate; and the said plaintiff shall, upon filing the said declaration, together with the said certificate and an affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of plea by nil dicit, and take out execution for the said sum so mentioned in the said certificate, together with the costs of the said action, according to due course of law: provided always, that the validity of such certificate shall not be called in question in any court.

Form of action in Scotland. 6. In such action it shall be sufficient, in Scotland, for the pursuer to allege that the defender is indebted to him in the sum mentioned in the said certificate, under the like proviso in regard to the validity of the certificate.

Persons paying costs may recover a proportion from other persons liable thereto. 7. In every case it shall be lawful for any person from whom the amount of such costs or sum named by the committee with consent as aforesaid has been so recovered to recover from the other persons, or any of them, who are liable to the payment of such costs or sum named by the committee with consent as aforesaid a proportionate share thereof, according to the number of persons so liable, and according to the extent of the liability of each person.

When committee report "Preamble not proved," promoters to pay costs out of deposits. 9 & 10 VICT. c. 20. 8. In any case in which the committee shall have reported that the preamble is not proved, and where, in accordance with the standing orders of either house of parliament and of an act of the ninth year of her present majesty, chapter twenty, a deposit of money or stock is made with respect to the application to parliament for an act, the money or stock so deposited shall be a security for the payment by the promoters of the bill for the act of all costs or sums in respect of costs, if any, payable by them under this act; and every party entitled to receive any costs or sum so payable shall accordingly have a lien available in equity for the same on the money or stock so deposited, and the lien shall attach thereon at the time when the bill is first referred to a committee of either house of Parliament; provided that where several parties have the lien for an amount exceeding in the aggregate the net value of the money or stock, their respective claims shall proportionately abate.

Definition of promoters. 9. When a bill is not promoted by a company already formed, all persons whose names shall appear in such bill as promoting the same, and in the event of the bill passing the company thereby incorporated, shall be deemed

to be promoters of such bill for all the purposes of this act. <sup>28 & 29 Vict.
CAP. 27.</sup>

10. For the purposes of this act the expression private bill shall extend to and include any bill for a local and personal act. <sup>Meaning of
private bill</sup>

11. That this act shall not take effect before the first day of November one thousand eight hundred and sixty-five. <sup>Commence-
ment of act.</sup>

CARRIERS ACT AMENDMENT, 1865.

28 & 29 VICT. cap. 94. An Act to Amend the
Carriers Act. [5th July, 1865.]

BE it enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

The term
"Lace" in
11 G. 4 & 1
W. 4, c. 68,
not to
include
machine-
made lace.

1. In the Carriers Act (that is to say, the act of the session held in the eleventh year of the reign of king George the Fourth and the first year of the reign of king William the Fourth, chapter sixty-eight, "for the more effectual protection of mail contractors, stage coach proprietors, and other common carriers for hire, against the loss of or injury to parcels or packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the owners thereof,") the term "lace" shall, with respect to any parcel or package delivered after the commencement of this act, be construed as not including machine-made lace.

Commence-
ment of act.

2. This act shall commence from and immediately after the thirtieth day of September one thousand eight hundred and sixty-five.

Short title.

3. This act may be cited as The Carriers Act Amendment Act, 1865.

CATTLE DISEASES PREVENTION, 1866.

29 & 30 Vict. cap. 2. An Act to amend the Law relating to Contagious or Infectious Diseases in Cattle and other Animals [so far as relates to Railways]. [20th February, 1866.] See 33 & 33
Vict. c. 70.

WHEREAS it is expedient to amend the law relating to contagious or infectious diseases in cattle and other animals :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This act shall be cited for all purposes as "The Cattle Diseases Prevention Act, 1866." Short title
of act.

2. This act shall not apply to Ireland. Application
of act.

10. Any inspector or other officer authorised to carry into effect the provisions of this act, may at all times enter any field, stable, cow-shed or other premises within his district, where he has reasonable grounds for supposing that cattle affected by the cattle plague are to be found, for the purpose of carrying into effect the provisions of this act; and if any person refuses admission to, or obstructs or impedes, or aids in obstructing or impeding, any such inspector or other officer, he shall for each offence be liable to a penalty not exceeding twenty pounds: provided always that such inspector shall, if required, state in writing the grounds on which he has entered such premises for the purpose aforesaid. Power of
entry for in-
spectors, &c.

Applied to
railways by
30 & 31 Vict.
c. 125, s. 5.

34. This act shall continue in force until the first day of June, one thousand eight hundred and sixty-seven, and until the end of the then session of Parliament, and no longer, except in so far as respects the power of levying rates for repaying any sums borrowed under the provisions of this act: provided that it shall be lawful for her Majesty in council at any time to suspend the operation of this act as respects the slaughter of cattle. Continuance
of act.

Further
continued
by 30 & 31
Vict. c. 125,
s. 1.

29 & 30 VICT. c. 2.

TELEGRAPH ACT AMENDMENT, 1866.

29 & 30 Vict. Cap. 3. An Act to amend the
Telegraph Act, 1863. [6th March, 1866.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Powers vested in secretary of state under sect. 52 of 26 & 27 Vict. c. 112. may be exercised by lord lieutenant of Ireland.

1. The powers vested in one of her majesty's principal secretaries of state by section fifty-two of The Telegraph Act, 1863, may be exercised in Ireland by the lord lieutenant or other chief governor or governors of Ireland for the time being, as well as by one of her majesty's principal secretaries of state, subject, with respect to compensation, and in all other respects, to the provisions in that section contained.

Where such powers are exercised, sect. 51 of above-recited act to be altered as to Ireland.

2. Where the powers of section fifty-two of the said act are exercised by the lord lieutenant or other chief governor or governors of Ireland, then and in every such case, in section fifty-one of the same act, the lord chief justice of her majesty's court of common pleas in Dublin shall be deemed to be substituted for the lord chief justice of her majesty's court of common pleas at Westminster.

Extension of sects. 48 to 53 of above-recited act to all Companies.

3. The provisions of the following sections of the said act, namely, sections forty-eight to fifty-one (both inclusive), section fifty-two as amended by this act, and section fifty-three, shall extend and apply to all incorporated companies, existing or future, constituted with the object of carrying on the business of constructing, maintaining, or working telegraphs, and to the works of those companies.

Short title.

4. This act may be cited as The Telegraph Act Amendment Act, 1866.

LABOURING CLASSES DWELLING HOUSES, 1866.

29 & 30 Vict. Cap. 28. An Act to enable the Public Works Loan Commissioners to make Advances towards the Erection of Dwellings for the Labouring Classes (so far as relates to Railways).
[18th May, 1866.]

1. THIS act may be cited as The Labouring Classes Dwelling Houses Act, 1866. Short title.

4. For the purpose hereinafter mentioned, the public works loan commissioners, as defined by the said act of the twenty-fourth and twenty-fifth years of her majesty, may out of the funds for the time being at their disposal from time to time advance on loan to any such local or other authority as hereinafter mentioned, namely (inter alia), Authorities and persons to whom loans may be made.

Any railway company, or dock or harbour company, or any other company, society, or association established for the purposes of this act or for trading or manufacturing purposes; Railway company.

Any private person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired ;

And any such local or other authority, or any such body or proprietor, may from time to time borrow from the public works loan commissioners such money as may be required for the purpose of this act, subject and according to the following provisions :

1. Such advance on loan shall be made for the purpose of assisting in the purchase of lands and buildings, or in the erection, alteration, and adaptation of buildings to be used as dwellings for the labouring classes, and in providing all conveniences which may be deemed proper in connexion with such dwellings : Objects of loans.

2. Any such advance may be made whether the local or other authority or body or proprietor receiving the same has or has not power to borrow on mortgage or otherwise, independently of this

29 & 30 VICT. c. 28. i.

29 & 30 VICT.
CAP. 28.

act; but nothing in this act contained shall repeal or alter any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up:

3. No sum shall be advanced without the approval of the commissioners of her majesty's treasury of the borrowing thereof, signified by some writing under the hand of one of their secretaries or assistant secretaries:

5. The period for the repayment of the sums advanced shall not exceed forty years:

6. The repayment of the money advanced, with interest thereon at such rate as shall be agreed upon, but not at a less rate than four pounds per centum per annum, shall be secured as follows; namely, in the case of an advance to any such local or other authority as aforesaid, either by a mortgage solely of the rates leviable by such authority, or by such other mortgage as herein-after mentioned, or by both; and in any other case by a mortgage of the estate or interest of any such local or other authority, or of any such body or proprietor as aforesaid, in the *lands or dwellings for the purposes of which the advance was made*; and in the case of an advance to a company, any part of whose capital remains uncalled up or unpaid, by a mortgage also of all capital so remaining uncalled up or unpaid; and any such mortgage as aforesaid may be taken either alone or together with any other security which may be agreed upon; but it shall not be incumbent on the public works loan commissioners to require any other security.

Currency of
loans.

Advance to
company.

Meaning de-
fined by 30
and 31 Vict.
cap. 28, s. 2.

Incorporation of 8 & 9
Vict. cc. 18.
and 19. with
this act.

5. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation (Scotland) Act, 1845, and any act amending the same, except the clauses in the said acts respectively with respect to the purchase and taking of lands otherwise than by agreement, shall be incorporated with this act, and for the purposes of those acts this act shall be deemed the special act; and any such local or other authority or body or proprietor as aforesaid exercising the powers of this act shall be deemed the promoters of the undertaking.

Powers to
railway and
other com-
panies.

8. Any railway company or dock or harbour company, or any other company, society, or association, established for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the labouring class are employed, may

and are hereby (notwithstanding any act of Parliament, or charter, or any rule of law or equity to the contrary,) authorized at any time or from time to time to erect, either on their own land or on any other land (which they are hereby authorized to purchase and hold for the purpose, and to pay for out of any funds at their disposal), dwellings for the accommodation of all or any of the persons of the labouring class employed by them, and shall have all the like powers of borrowing and other powers which are herein-before conferred on any such body or proprietor as herein-before mentioned.

29 & 30 VICT.
CAP. 28.

10. This act shall not extend to Ireland.

Extent of
act.

CUSTOMS AND INLAND REVENUE, 1866.

29 & 30 Vict. Cap. 36. An Act to grant, alter, and repeal certain Duties of Customs and Inland Revenue, and for other Purposes relating thereto (as to Railways), [11th June, 1866.]

Concerns described in No. III. of Schedule (A.) of 5 & 6 Vict. c. 85. to be assessed under Schedule (D.) of said act.

Railways to be assessed by commissioners for special purposes.

8. The several and respective concerns described in No. III. of Schedule (A.) of the said act passed in the fifth and sixth years of her majesty's reign, chapter thirty-five, shall be charged and assessed to the duties hereby granted in the manner in the said No. III. mentioned, according to the rules prescribed by schedule (D.) of the said act, so far as such rules are consistent with the said No. III.: provided that the annual value or profits and gains arising from any railway shall be charged and assessed by the commissioners for special purposes.

LABOURING CLASSES LODGING HOUSES AND DWELLINGS (IRELAND), 1866.

29 & 30 Vict. Cap. 44. An Act to encourage the Establishment of Lodging Houses for the Labouring Classes in Ireland (so far as relates to Railways). [28th June, 1866.]

1. In citing this act for any purpose it shall be sufficient to use the expression The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866. Short title

8. For the purposes herein-after mentioned the commissioners of public works in Ireland may, out of the funds from time to time at their disposal, advance on loan to any such council or town commissioners as aforesaid, or to any company, society, or person as herein-after mentioned, namely, any railway company, or dock or harbour company or commissioners, or any other company, society, or association established for trading or manufacturing purposes in the course of whose business or in discharge of whose duties persons of the labouring class may be employed, any private person or persons entitled to any land held in fee simple or fee farm, or for lives renewable for ever or for any term of years whereof not less than eighty years shall be unexpired, and all such advances by way of loan shall be applied towards the purchase of land or buildings and the erection, alteration, and adaptation of buildings to be used as dwellings for the labouring classes, and in providing all conveniences which may be deemed by the commissioners of public works proper in connexion with such dwellings, and in the case of loan to any such council or town commissioners as aforesaid the term "dwellings" in this section shall include lodging houses formed or erected by them under the authority of this act. Commissioners of public works may advance monies to railway companies, and others.

9. Any such advance may be made whether the local or other authority, body corporate, society, or person or persons receiving the same has or has not power to borrow on mortgage or otherwise independently of this act; but nothing in this act contained shall repeal or alter any regulation, statutory or otherwise, whereby any Advances may be made whether local or other authority has power to borrow.

29 & 30 VICT. c. 44. i.

29 & 30 VICT.
CAP. 44.

company may be disabled from borrowing until a definite portion of capital is subscribed for, taken, or paid up, and no such advance shall be made without the approval of the lords of the treasury.

Commissioners of public works with the approval of the treasury, to make rules and regulations.

10. It shall be lawful for the said commissioners of public works, with the approval of the said lords of the treasury, from time to time to make such rules and regulations as they may think fit with respect to applications for loans under this act, and the terms and conditions on which such loans shall be made, and to issue such instructions and forms as they may think proper for the guidance and observance of persons or bodies applying for or receiving such loans, or executing such works, or rendering accounts of monies expended under this act, or regarding the class of dwellings or lodging houses (as the case may be), towards the providing of which such loans may be made, and the adaptation thereof to the purposes intended, and as to the mode of providing for their maintenance, repair, or insurance.

Period for repayment of advances.

11. The period for the repayment of such advances shall be regulated by the public works commissioners, with the sanction of the commissioners of the treasury, and shall in no case exceed forty years.

Security for such advances.

12. The repayment of any such money so advanced, with interest thereon at any rate not less than four pounds per cent. per annum, shall be secured as follows, namely, in the case of an advance to any such council or town commissioners by a mortgage solely of said rates so leviable by them respectively as aforesaid, or by such mortgage as hereinafter mentioned, or by both, and in any other case by mortgage of the *lands, buildings, or premises for the purposes of which such advance shall be made*; and in the case of an advance to a company or society any part of whose capital remains uncalled up or unpaid by a mortgage also of all capital so uncalled up or unpaid; and any such mortgage may be taken either alone or together with any other security which may be agreed upon.

Money advanced on security of land not to exceed moiety of the value.

13. The money so advanced on the security of any land or building shall not exceed one moiety of the value of the estate or interest in such land or buildings so proposed to be given in mortgage, and all such monies may be advanced by instalments as may be agreed upon.

Council town commissioners, or society may appropriate lands.

14. Any such council or town commissioners, and every such other company, commissioners, society, or association, may appropriate for the purposes of this act any lands vested in them respectively, and they may also respectively purchase or take on lease any lands or buildings necessary for the purposes of this act; and

every such commissioners, company, association, or society as aforesaid, for the purpose of taking and holding such lands, shall be deemed to be a body corporate, with right of perpetual succession: provided always, that no such council or town commissioners shall so appropriate, purchase, or take on lease, any such lands or buildings without the sanction of the said lords of the treasury.

29 & 30 VICT.
CAP. 44.

15. For the purpose of the acquisition of any such lands or buildings by said council, town commissioners, commissioners, company, society, association, or person as aforesaid, all the statutory enactments for the time being applicable to the acquisition of lands by railway companies in Ireland (save so far as they relate to the taking of lands otherwise than by agreement) shall be deemed to be incorporated with this act; and for the purposes aforesaid this act shall be deemed the special act, and the said council or town commissioners, society, association, or person as aforesaid the promoters.

Enactments applicable to the acquisition of lands by railway companies to apply.

16. The said council or town commissioners, company, society, association, or person may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be, respectively erect any buildings suitable for the dwellings or lodging houses, as the case may be, of the labouring classes, and convert any buildings so taken by them into such dwellings or lodging houses, and may from time to time alter, enlarge, repair, and improve the same, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences, and may enter into any contracts for the purposes aforesaid, and may apply to the purposes aforesaid any funds at their disposal respectively.

Buildings to be erected.

17. Any such council or town commissioners, company, society, or association may enter into any contracts for the purpose of supplying any such lodging houses provided or erected by them with gas, water, or other conveniences, and any commissioners or trustees for the supplying of any borough with gas or water may, if they shall think fit, supply gas or water to such lodging houses without charge, or at any reduced charge, or on other favourable terms.

Council or town commissioners, &c. may enter into contracts.

19. Any such council, town commissioners, railway company, or dock or harbour company or commissioners, may from time to time, with the sanction of the lords of the treasury, make sale and dispose of any lands, houses, or buildings vested in such council, commissioners, or company as last aforesaid for the purposes of this act, and may with the like sanction exchange any such lands, houses, or buildings for any others better suited for such

Council town commissioners, or company may make sale of lands vested in them for the purposes of this act.

29 & 30 VICT.
CAP. 44.

purposes, with or without paying or receiving any money for equality of exchange, and the proceeds of all such sales shall be applied for the benefit of such council, commissioners, or company, or for the purposes of this act, in such manner as the said lords of the treasury may approve or direct.

Council or
commissioners may
make bye-laws for the
following
purposes.

21. That such council or town commissioners, company, society, association, or person may make bye-laws for the regulation of such lodging houses, and from time to time vary and alter such byelaws, and may appoint any penalty not exceeding five pounds for the breach by their officers respectively, or by any tenants or occupiers of such lodgings, of every such byelaw, and such byelaws among other things shall make sufficient provision for the following purposes :

1. For securing that such lodging houses shall be under the control of the officers and servants of the council or town commissioners, company, society, association, or person :
2. For securing the due separation at night of men and boys over eight years of age from women and girls :
3. For preventing damage, disturbance, interruption, indecent, or offensive language and behaviour, and nuisances.
4. For determining the duties of the officers, servants, and others appointed by the council or town commissioners, company, society, association, or person : provided always, that no such byelaw shall be of any legal force until the same shall have received the approval of the chief secretary or under secretary for Ireland.

Printed copy
of byelaws to
be put up.

22. A printed copy of such byelaws shall be put up and at all times kept on every room of any such lodging house.

Recovery
and applica-
tion of fines.

24. All fines imposed by any such byelaw shall be recovered in a summary way before any justice, and one moiety of any such penalty shall be paid to the informer, and the other moiety to the council or town commissioners, company, society, association, or person, to be applied by them in aid of the expenses of such lodging houses.

PIER AND HARBOUR ORDERS CONFIRMATION, 1866.

29 & 30 Vict. Cap. 58. An act for confirming certain Provisional orders made by the Board of Trade under The General Pier and Harbour Act, 1861, relating to Ardglass, Blackpool (South), Cowes (West), Dawlish, Hopeman, Hornsea, Llandudno, Penzance, Plymouth (Hoe), Redcar, and Scarborough (so far as relates to Railways).
[6th August, 1866.]

7. LLANDUDNO—Order for the Construction, Maintenance, and Regulation of a Pier at Llandudno, in the County of Carnarvon.

3. The company shall, within two years from the confirmation of this provisional order, and before opening for public traffic the pier and works by this order authorised, purchase from the London and North Western Railway Company, and the London and North Western Railway Company shall sell to the company, the existing pier and works at Llandudno aforesaid as shown on the deposited plans, and constructed under the powers of The St. George's Harbour Act, 1853, and the several acts amending the same, and all the tolls, rates, and duties payable in respect thereof, and all the rights and powers of the said railway company by virtue of the provisions of the said acts or any or either of them in relation thereto, connected therewith, or incidental thereto, at the price or sum of one thousand pounds sterling.

Power to purchase the pier and works of the London and North Western Railway Company.

CARRIAGE AND DEPOSIT OF DANGEROUS GOODS, 1866

29 & 30 Vict. Cap. 69. An Act for the Amendment of the Law with respect to the Carriage and Deposit of dangerous Goods.

[6th August, 1866.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Nitro-glycerine to be deemed dangerous.

1. The goods or article commonly known as nitro-glycerine or glonoin oil shall be deemed to be specially dangerous within the meaning of this act.

Other goods may be declared so by order in council.

2. Her majesty may from time to time, by order in council, declare that any goods named in such order (other than nitro-glycerine or glonoin oil) are to be deemed specially dangerous within the meaning of this act; and may from time to time amend or repeal any such order; and any goods which are by any such order declared to be specially dangerous shall, so long as such order is in force, be deemed to be specially dangerous within the meaning of this act.

Such goods to be marked, and notice to be given of their character.

3. No person shall deliver any goods which are specially dangerous to any warehouse owner or carrier, or send or carry or cause to be sent or carried any such goods upon any railway or in any ship to or from any part of the United Kingdom, or in any other public conveyance, or deposit any such goods in or on any warehouse or quay, unless the true name or description of such goods, with the addition of the words specially dangerous, is distinctly written, printed, or marked on the outside of the package, nor in the case of delivery to or deposit with any warehouse owner or carrier, without also giving notice in writing to him of the name or description of such goods, and of their being specially dangerous. And any person who commits a breach of this enactment shall be liable to a penalty not exceeding five hundred pounds, or at the discretion of the court to imprisonment, with or

without hard labour, for any term not exceeding two years. 29 & 30 VICT.
CAP. 69

4. Provided always, as follows :

(1.) Any person convicted of a breach of the last foregoing enactment shall not be liable to imprisonment, or to a penalty of more than two hundred pounds, if he shows to the satisfaction of the court and jury before whom he is convicted that he did not know the nature of the goods to which the indictment relates : Provision for case of absence of knowledge of nature of goods.

(2.) Any person accused of having committed a breach of the said enactment shall not be liable to be convicted thereof if he shows to the satisfaction of the court and jury before whom he is tried that he did not know the nature of the goods to which the indictment relates, and that he could not, with reasonable diligence, have obtained such knowledge.

5. Where goods are delivered, sent, carried, or deposited in contravention of the said enactment the same shall be forfeited, and shall be disposed of in such manner as the commissioners of her majesty's treasury or (in case of importation) the commissioners of customs direct, whether any person is liable to be convicted of a breach of the said enactment or not. As to forfeiture of such goods.

6. No warehouse owner or carrier shall be bound to receive or carry any goods which are specially dangerous. Warehouse owners, &c., not bound to receive such goods.

7. In construing this act the term warehouse owner shall include all persons or bodies of persons owning or managing any warehouse, store, quay, or other premises in which goods are deposited; and the word carrier shall include all persons or bodies of persons carrying goods or passengers for hire by land or water. Interpretation of "Owner" and "Carrier."

8. The act of the session of the twenty-fifth and twenty-sixth years of her majesty's reign, chapter sixty-six, for the safe keeping of petroleum, is hereby extended and applied to nitro-glycerine, and that act shall be read and have effect as if throughout its provisions nitro-glycerine had been mentioned in addition to petroleum; save that so much of the said act as specifies the maximum quantity of petroleum to be kept as therein mentioned without a licence shall not apply in the case of nitro-glycerine, and any quantity whatever of nitro-glycerine shall be deemed to be subject to the provisions of the said act. Application of 25 & 26 Vict. c. 66. to nitro-glycerine.

9. The said act of the session of the twenty-fifth and twenty-sixth years of her majesty's reign is also hereby extended and applied to any substance for the time being declared by any order in council under this act to be Application of the same act to other substances.

20 & 30 VICT. specially dangerous, and that act shall be read and have
CAP. 69. effect as if throughout its provisions the substance to
which such order in council relates had been mentioned
in addition to petroleum ; save that the quantity of such
substance which it shall not be lawful to keep as in the
said act mentioned without a licence shall, instead of the
quantity specified in relation to petroleum in the said act,
be such quantity as is specified in that behalf in relation
to any such substance in any such order in council.

Short title. 10. This act may be cited as The Carriage and Deposit
of dangerous Goods Act, 1866.

RAILWAY COMPANIES (IRELAND) TEMPORARY ADVANCES, 1866.

29 & 30 Vict. Cap. 95. An Act to enable the Public Works Loan Commissioners to make temporary Advances to Railway Companies in Ireland. See 31 & 32
Vict. c. 94.
[10th August, 1866.]

WHEREAS in the present state of the monetary affairs of the kingdom it is expedient that provision should be made for authorising loans for short periods to railway companies in Ireland :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as The Railway Companies (Ireland) Temporary Advances Act, 1866. Short title.

2. For the purposes of loans under this act the commissioners of her Majesty's treasury may from time to time, by warrant under the hands of two or more of them, cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, to the account of the commissioners for the reduction of the national debt, any sum or sums of money not exceeding in the whole five hundred thousand pounds, such money to be applied exclusively under this act, and to be at the disposal of the public works loan commissioners (hereinafter called "the commissioners") in like manner in all respects as money placed at their disposal under the act of the session of the twenty-fourth and twenty-fifth years of her Majesty (chapter eighty), and the acts therein recited, subject nevertheless to the provisions of this act, which provisions shall have full effect notwithstanding anything in the Public Works Loan Act, 1853, or any act therein mentioned, to the contrary contained. Power to charge not exceeding 500,000*l.* upon the consolidated fund for purposes of this act, and to be at the disposal of the public works loan commissioners.

3. All the several clauses, powers, authorities, provisions, enactments, directions, regulations, restrictions, privileges, priorities, advantages, penalties, and forfeitures contained in and conferred and imposed by the said acts Powers of public works loan acts extended to this act.

29 & 30 Vict. c. 95. i.

29 & 30 VICT.
CAP. 66.



Power to
make
advances of
money to
railway
companies in
Ireland.

[Repealed
by 39 & 39
VICT. c. 66,
s. 1.]

or any of them, so far as the same may be made applicable and are not varied by this act, shall be taken to extend to this act, and to everything to be done in pursuance of this act, as if the same were herein repeated and set forth.

4. The commissioners may, out of the money for the time being at their disposal under this act, from time to time lend to any railway company in Ireland, and any such railway company may from time to time borrow from the commissioners, such sums as may be agreed upon, subject and according to the following provisions :

(1.) *Every loan shall be made either for the purpose of discharging the principal of money temporarily borrowed and actually applied within three calendar months before the passing of this act in discharging principal money secured by any debentures or other securities of the company duly issued before the passing of this act pursuant to the acts relating to the company, or for the purpose of discharging the principal money secured on any such debentures or other securities due at the time of the passing of this act, or falling due within three calendar months afterwards, or within such further period not exceeding twelve calendar months from the passing of this act as the commissioners of her Majesty's treasury may from time to time direct :*

(2.) The interest made payable on each loan shall be at such rate as the commissioners of her Majesty's treasury shall from time to time direct, but not less than four pounds per cent. per annum, nor less than the rate of interest payable on the principal money in discharge whereof the loan is applied : provided that under special circumstances the commissioners of her Majesty's treasury may by warrant under their hands direct interest to be payable at a rate lower than such last-mentioned rate, but in such case a copy of each warrant shall be laid before parliament :

(3.) The repayment of every loan with the interest thereon, *at a time not later than twelve calendar months from the date of the advance*, shall be secured by a debenture or other security issued under the acts of parliament regulating the company to which the loan is made, and such payment may be further secured in any mode to be agreed on between the company and the com-

[Repealed
by 38 & 39
VICT. c. 66,
s. 1.]

missioners, but it shall not be obligatory on the commissioners to require any other security besides the debenture. 20 & 30 VICT. CAP. 98.

- (4.) *The commissioners shall not be bound to make any loan under this act unless the security offered is in their opinion sufficient and proper.* [Repealed by 38 & 39 VICT. C. 68, s. 1.]

5. If any principal money or interest secured by any debenture or other security given under this act shall remain unpaid at the expiration of six months after the same shall have become due, the commissioners may, by order in writing under the hands of any three of them, appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or such principal and interest, as the case may be, together with all costs and expenses incurred by the commissioners, including the expenses of receiving the tolls or sums aforesaid, be fully paid, and upon such appointment being made all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed, and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease. Power to appoint receiver in default of payment for six months.

6. If any principal money or interest secured by any debenture or other security given under this act shall remain unpaid at the expiration of one year after the same shall have become due, then the whole undertaking of the company by whom such debenture or security was given, and all their lands, works, rolling stock, and other property and effects of every kind, shall, immediately on the expiration of such one year, become vested in the secretary of the public works loan commissioners, freed from all mortgages, charges, or incumbrances whatsoever affecting the same, but by way of mortgage for securing payment of the principal monies and interest due and to become due under all debentures or other securities duly issued and registered by the company before the mortgage under this section takes effect, in the same order and priority, and with the same benefit of special security (if any) duly given, as may be then subsisting, and by virtue of the mortgage effected under this section the commissioners shall, under their several acts, have, as against the company, all the same powers, rights, and privileges as if such mortgage had formed the first charge on the property of the company, and had been originally made under the several acts relating to the commissioners, for securing the amount of a loan advanced under those In default of payment for twelve months the undertaking vested in secretary of public works loan commissioners.

29 & 30 VICT. C. 95. iii.

29 & 30 VICT.
CAP. 95.

Application
of moneys
recovered
under last
preceding
section

acts, and default had been made in payment of the principal and interest due in respect of such loan.

7. The moneys recovered or received by the commissioners in respect of any mortgage which shall take effect under the last preceding section shall be applied as follows:

- (1.) In payment of all costs, charges, and expenses incurred in executing or putting in force any powers or rights conferred by the mortgage, or in realizing the property mortgaged, or in the recovery, application, or distribution of the money received or secured thereunder, or otherwise in reference thereto :
- (2.) In payment of the amounts due under all debentures or other securities duly issued and registered by the company before the mortgage took effect, in the same order and priority, and with the same benefit of special security (if any) duly given, and in the same manner in all respects in which such amounts would be payable out of the assets of the company in case no mortgage had been effected under the last preceding section :
- (3.) The surplus may be paid to the company, or may be paid by the secretary of the commissioners, into the bank of Ireland, to the credit of the accountant general of the court of chancery in Ireland, "the account of the surplus capital of the company (naming the company)," pursuant to the provisions of the act of the eleventh and twelfth years of her Majesty, chapter sixty-eight, intituled an act for extending to Ireland an act passed in the last session of parliament, intituled "an act for better securing trust funds, and for the relief of trustees," and for the purpose of any such payment into court the secretary of the commissioners shall be deemed a trustee of such surplus within the meaning of the said act :
- (4.) Such orders as shall seem fit shall from time to time be made by the court of chancery in Ireland, under the said last-mentioned act, for payment and distribution of such surplus or any part thereof to the company, or to or among any companies or persons entitled to such surplus or any part thereof.

Securities
under this
act declared
valid.

8. Every debenture or other security given by any company for a loan under this act shall be deemed to be a debenture or security issued in accordance with the acts

regulating the company, and shall not be rendered invalid by any want of compliance with the provisions of such acts, or by any other omission or informality whatever. 29 & 30 VICT.
CAP. 95.

9. No debenture or other security executed for securing payment of any loan under this act shall be liable to any stamp duty whatever. Exemption
from stamp
duty.

CONSTABULARY FORCE (IRELAND), 1866.

29 & 30 Vict. Cap. 103. An Act to amend an Act to consolidate the Laws relating to the Constabulary Force in Ireland (so far as relates to Railways). [10th August, 1866.]

Rate of
charge upon
railway com-
panies for
constabulary
protection.

13. From and after the passing of this act, in all cases where members of the constabulary force shall be required to keep the peace in the neighbourhood of railway works or other public works in Ireland, the costs and expenses of such members, calculated in the manner herein-before mentioned, shall be charged upon the company or other parties carrying on such railway or other public works.

RAILWAY COMPANIES SECURITIES, 1866.

29 & 30 Vict. Cap. 108. An Act to amend the Law relating to Securities issued by Railway Companies.
[10th August, 1866.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as the Railway Companies Short title. Securities Act, 1866.

2. In this act—

The term "railway" includes a tramway authorized by act of Parliament incorporating The Companies Clauses Consolidation Act, 1845, but not any other tramway :

Interpreta-
tion of
terms.

The term "railway company" includes every company authorized by act of parliament to raise any loan capital for the construction or working of a railway, or for any purposes connected with the conveyance by such company of traffic on a railway, either alone or in conjunction with other purposes :

The term "debenture stock" includes mortgage preference stock and funded debt, and any stock or shares representing loan capital of a railway company, by whatever name called :

The term "act of parliament" includes a certificate of the board of trade made under The Railways Construction Facilities Act, 1864, or The Railway Companies Powers Act, 1864, or any other act of parliament.

27 & 28 Vict.
cc. 121, 121.

3. Every railway company shall, on or before the fifteenth day of January one thousand eight hundred and sixty-seven, register, and shall always thereafter keep registered, at the office of the registrar of joint stock companies in England, the name of their secretary, accountant, treasurer, or chief cashier for the time being authorized by them to sign instruments under this act, or, if they think fit, the names of two or more such officers of the company so authorized (and the officer so registered for the time being, and any one of the officers so registered if more than one, is in this act referred to as the company's registered officer).

Company to
have regis-
tered officer.

4. Half years shall, for the purposes of this act, be deemed to end on the thirtieth day of June and the
Half years
for purposes
of act.

29 & 30 VICT. c. 108. i.

29 & 30 VICT.
CAP. 108.

[Repealed
by 38 & 39
VICT. c. 66,
s. 1.]

thirty-first day of December ; and the first half year to which this act applies shall be that ending on the thirty-first day of December one thousand eight hundred and sixty-six ; but the board of trade, on the application of any railway company, may (by writing under the hand of one of their secretaries or assistant secretaries, which shall be registered by the railway company at the office of the said registrar) appoint, with respect to that company, other days for the ending of half years (including the first).

Loan capital
accounts to
be made
half-yearly.

5. Within fourteen days after the end of each half year, every railway company shall make an account of their loan capital authorized to be raised and actually raised up to the end of that half year, specifying the particulars described in the first schedule to this act, part I. (which account for each half year is in this act referred to as the loan capital half-yearly account).

Form of
half-yearly
account.

6. The board of trade may from time to time, by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which the loan capital half-yearly account is to be made.

Account to
be open
to share-
holders, &c.

7. The loan capital half-yearly account of each company may be perused at all reasonable times, without payment, by any shareholder, stockholder, mortgagee, bond creditor, or holder of debenture stock of the company, or any person interested in any mortgage, bond, or debenture stock of the company.

Deposit of
copy of ac-
count with
registrar of
joint stock
companies.

8. Within twenty-one days after the end of each half year every railway company shall deposit with the registrar of joint stock companies in England a copy, certified and signed by the company's registered officer as a true copy, of their loan capital half-yearly account.

Deposit in
Scotland and
Ireland.

9. A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any loan capital half-yearly account of the company.

Prohibition
against
borrowing
before regis-
tration of
act giving
the borrow-
ing power.

10. It shall not be lawful for any railway company at any time to borrow any money on mortgage or bond, or to issue any debenture stock, under any act of the present session or passed after the end of the half year to which their then last registered loan capital half-yearly account relates, unless and until they have first deposited with the registrar of joint stock companies in England a statement, certified and signed by the company's registered officer as a true statement, specifying the particulars described in the first schedule to this act, part II.

The board of trade may from time to time, by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which such statement is to be made.

29 & 30 VICT.
CAP. 108.

A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any such statement.

11. If at any time any railway company fail to register or keep registered as aforesaid the name of their secretary, accountant, treasurer, or chief cashier, or to deposit with the registrar of joint stock companies in England, within the time required by this act, such a copy as aforesaid of any loan capital half-yearly account, or borrow any money on mortgage or bond, or issue any debenture stock without having first deposited with the registrar of joint stock companies in England such a statement as they are by this act required to deposit, in any case where they are so required, then, and in every such case they shall be deemed guilty of an offence against this act, and shall for every such offence be liable, on summary conviction, to a penalty not exceeding twenty pounds, and in case of a continuing offence to a further penalty not exceeding five pounds for every day during which the same continues after the day on which the first penalty is incurred.

Penalty on
company
failing to
register, &c.

12. Every person may inspect the documents kept by any registrar or assistant registrar under this act on paying a fee of one shilling for each inspection as regards each railway company; and any person may require a copy or extract of any of those documents to be certified by the registrar or assistant registrar on paying for such certified copy or extract a fee of sixpence, and a further fee of sixpence for every two hundred words or fractional part of two hundred words after the first two hundred words.

Power to
inspect documents on
payment of
a fee.

13. Every railway company on registering the name or names of any officer or officers, or depositing any account or statement, under this act, shall pay the like fee as is for the time being payable under The Companies Act, 1862, on registration of any document other than a memorandum of association.

Fees on re-
gistration
of name of
officer, &c.

14. There shall be put (by endorsement or otherwise) on every mortgage deed or bond made or given after the twenty-first day of January one thousand eight hundred and sixty-seven by a railway company for securing money borrowed by the company, and on every certificate given after that day by a railway company for any

Declaration
by directors,
&c., on mort-
gage deed,
&c.

29 & 30 Vict.
CAP. 108

sum of debenture stock issued by the company, a declaration in the form given in the second schedule to this act, or to the like effect, with such variations as circumstances require.

Every such declaration shall be signed by two directors of the company specially authorized and appointed by the board of directors to sign such declarations, and by the company's registered officer.

Penalty on
company,
&c., if decla-
ration
omitted.

15. If after the expiration of the time specified in the last preceding section any railway company deliver any such mortgage deed, bond, or certificate without such a declaration being first put thereon and signed as aforesaid, they shall be deemed guilty of an offence against this act, and shall for every such offence be liable, on summary conviction, to a penalty not exceeding twenty pounds; and if any director or officer of any railway company knowingly authorizes or permits the delivery of any such mortgage deed, bond, or certificate without such a declaration being first put thereon and signed as aforesaid, every such person shall be deemed guilty of an offence against this act.

Penalty on
registered
officer.

16. If any director or registered officer of a company signs any declaration, account, or statement under this act knowing the same to be false in any particular he shall be deemed guilty of an offence against this act.

Punishment
for offences
against act.

17. If any director or officer of a railway company is guilty of an offence against this act, he shall be liable, on conviction thereof on indictment, to fine or imprisonment, or on summary conviction thereof to a penalty not exceeding ten pounds.

Nothing to
affect lia-
bility of
company,
&c.

18. Nothing in this act, or in any account, statement, or declaration under it, shall affect in any action or suit any question respecting any loan, debt, liability, mortgage, bond, or debenture stock as between a railway company or any director or officer of a railway company on the one side, and any person or class of persons on the other side.

Account, &c.,
not to be
evidence for
company.

19. An account, statement, or declaration under this act shall not be admissible as evidence in favour of a railway company of the truth of any matter therein stated.

SCHEDULES.

THE FIRST SCHEDULE.

PART I.—Particulars to be specified in Loan Capital Half-yearly Account.

A. Every half-yearly account to show—

- (1.) The act or acts of parliament under the powers of which the company have contracted any mortgage or bond debt existing at the end of the half year, or have issued any debenture stock then existing, or the act or acts of parliament by or under which any mortgage or bond debt or debenture stock of the company then existing has been confirmed, and the act or acts of parliament under which the company have any subsisting power to contract any mortgage or bond debt, or to issue any debenture stock (either on fulfilment of any condition or otherwise):
- (2.) The amount or respective amounts of mortgage or bond debt or debenture stock thereby authorized or confirmed:
- (3.) Whether or not by any such act or acts the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock:
- (4.) The date at which such condition has been fulfilled:
- (5.) The amount or the aggregate amount, under the powers of such act or acts, actually borrowed up to the end of the half year on mortgage or bond (distinguishing them), and then being an existing debt, and of debenture stock actually issued up to that time and then existing:
- (6.) The amount or the aggregate amount remaining to be borrowed.

29 & 30 VICT.
CAP. 108.

B. The second and every subsequent half-yearly account to show also—

- (7.) The items described in paragraphs (2.) and (5.) of this part of the present schedule for two consecutive half years, and the increase or decrease of any of those items in the second of those half years as compared with the first.

PART II.—Particulars to be specified in Statement as to new Borrowing Power.

- (1.) The act of parliament conferring the power to borrow on mortgage or bond or to issue debenture stock (either on fulfilment of any condition or otherwise):
- (2.) The amount of mortgage or bond debt or debenture stock thereby authorized:
- (3.) Whether or not by such act the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock:
- (4.) The date at which such condition has been fulfilled.

THE SECOND SCHEDULE.

Declaration on Mortgage Deed, Bond, or Certificate of Debenture Stock.

The Railway Company.

We, the undersigned, being two of the directors of the company specially authorized and appointed for this purpose, and I, the undersigned registered officer of the company, do hereby declare (each for himself) that the within-written [*or as the case may be*] mortgage deed

[*or* bond *or* certificate] is issued under the borrowing powers of the company as registered * on the day of _____, and is † not in excess of the amount there stated as remaining to be borrowed.

29 & 30 VICT.
CAP. 108.

Dated this _____ day of _____ 18 .

_____ } Directors.

_____ } [Secretary or Accountant,
or as the case may be]
and registered officer.

Note.—Where the case so requires with reference to a statement under the first schedule, part II., leave out from the * to the end of the form and insert:—

on the _____ day of _____ and the _____ day of _____, and is not in excess of the amounts there stated as remaining and authorized to be borrowed.

Where the mortgage deed, bond, or certificate is issued under a power of re-borrowing, or of issuing debenture stock in discharge of mortgage or bond debt, leave out from the † to the end of the form, and insert:—in substitution for a mortgage deed [*or* bond] which has since been paid off.



LABOURING CLASSES DWELLING HOUSES, 1867.

30 & 31 Vict. Cap. 28. An Act to amend "The Labouring Classes Dwellings Acts, 1866."

[17th June, 1867.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as "The Labouring Classes Dwelling Houses Act, 1867." Short title.

2. In the fourth section of "The Labouring Classes Dwelling Houses Act, 1866," the words "land or dwellings for the purposes of which the advance is made," and in the twelfth section of "The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866," the words "lands, buildings, or premises for the purpose of which such advance shall be made," shall respectively be construed to include any land, buildings, or premises held together with and for the same estate and interest as the lands, buildings, or premises upon which the money advanced is to be expended under the provisions of the said acts respectively. Defining meaning of certain terms in 29 & 30 Vict. c. 28. and 44.

3. In the case of an advance under the provisions of either of the said acts to a company or society, any part of whose capital remains uncalled up or unpaid, it shall be lawful, in England for the public works loan commissioners, and in Ireland for the public works commissioners, to dispense with a mortgage of such capital remaining uncalled up or unpaid, or of such part thereof as they may think fit. In case of advances to company, part of whose capital is unpaid, loan commissioners may dispense with mortgage.

4. Notwithstanding the fifty-third section of "The Labouring Classes Lodging Houses Act, 1851," all the provisions of "The Labouring Classes Dwelling Houses Act, 1866," so far as they are applicable to Scotland, shall be deemed and construed to extend and apply to Scotland. Extending 29 & 30 Vict. c. 28, to Scotland.

LOCAL GOVERNMENT SUPPLEMENTAL
(No. 5.), 1867.

30 & 31 Vict. Cap. 88. An Act to confirm certain Provisional Orders under "The Local Government Act, 1858," relating to the districts of Ramsgate, Tunbridge Wells, Bognor, Newport, Chesterfield, Malvern, Great Harwood and Harrow, and for other purposes relating to certain districts under that Act [so far as it affects the London and North-Western Railway Company.]
[12th August, 1867.]

As to covering tank and deodorization of sewage of Harrow district.

15. The local board of health in and for the district of Harrow in the county of Middlesex shall well and effectually cover over, and at all times keep so covered over, any sewage tank, reservoir, or other works to be constructed on the pieces of land described in the schedule to the Harrow order in this act contained and thereby proposed to be purchased, and shall at all times in the removal and dispersion of sewage matter from any such tank, reservoir, or works adopt such means, by deodorization or otherwise, for the purpose of neutralizing any nuisance which might otherwise arise therefrom as shall from time to time be agreed upon by the respective principal engineers for the time being of the London and North-western railway company and of the aforesaid Harrow local board of health, or in the event of their not agreeing then as shall be determined by an engineer to be appointed by the board of trade on the application of either the railway company aforesaid or of the said local board of health; and all such works and acts shall be in all things at the expense of the said local board of health, but the costs of any such reference shall be in the discretion of such engineer so to be appointed as aforesaid.

INLAND REVENUE, 1867.

30 & 31 Vict. Cap. 90. An Act to alter certain duties, and to amend the laws relating to the Inland Revenue, [so far as it affects railways.]
[12th August, 1867.]

As to stamps.

20. From and after the passing of this Act the following documents shall be charged with the stamp duty of one penny; that is to say,

Stamp duties granted on certain documents.

Letter of allotment of any share of any company or proposed company, or in respect of any loan raised or proposed to be raised by any such company, or letter of allotment issued or delivered in the united kingdom of any share of any foreign or colonial company or proposed company, or in respect of any loan raised or proposed to be raised by or on behalf of any foreign or colonial government, state, company, or corporation; and the term "letter of allotment" herein-before used shall include letter of renunciation or other document having the effect of a letter of allotment in favour of any person:

Letters of allotment.

Scrip certificate or other document entitling any person to become the proprietor of any share of any company or proposed company, or scrip certificate or other document issued or delivered in the united kingdom, entitling any person to become the proprietor of any share of any foreign or colonial company or proposed company:

Scrip Certificate.

Scrip or other document denoting or intended to denote the right of any person as a subscriber in respect of any loan raised or proposed to be raised by any company, or any scrip or other document issued or delivered in the united kingdom denoting or intended to denote the right of any person as a subscriber in respect of any loan raised or proposed to be raised by or on behalf of any foreign or colonial government, state, company, or corporation.

Scrip.

21. If any person shall sign, grant, issue, or deliver any document chargeable with stamp duty under the provisions of the section lastly herein-before contained, before the same shall be duly stamped for denoting the said duty, he shall forfeit the sum of twenty pounds.

Penalty for signing, &c. the documents charged with stamp duty.

30 & 31 VICT. C. 90. i.

RAILWAYS (IRELAND), 1867.

30 & 31 Vict. Cap. 104. An Act to amend and extend as to Railways in Ireland the provisions of an Act of the seventh and eighth years of Victoria, intituled an Act to attach certain conditions to the construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.
[15th August, 1867.]

7 & 8 Vict.
c. 85.

WHEREAS it is expedient to amend an Act passed in the session of parliament holden in the seventh and eighth years of the reign of her present majesty, intituled "An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways," so far as the same relates to the furnishing of accounts to the commissioners of her majesty's treasury by railway companies in Ireland :

Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Power to
treasury
to call for
accounts
of any rail-
way com-
pany in Ire-
land.

1. It shall be lawful for the commissioners of her majesty's treasury to direct any railway company in Ireland to furnish to them, on such day as they shall appoint, a full and true account of all moneys received and paid during a period of three years previous to the date of the last half-yearly account of such company on account of such railway or of any undertaking connected therewith (distinguishing, if the said railway shall be a branch railway or one worked in common with other Railways, the receipts, and giving an estimate of the expenses, on account of the said railway, from those on account of the trunk line or other railways,) by the directors of the company to whom such railway belongs or by whom the same may be worked ; and also an account of the assets and liabilities of such company, at such time or times during the said period as the said commissioners shall specify ; and such accounts shall be

30 & 31 Vict. c. 104. i.

duly audited and certified under the hands of two or more of the directors of such company.

2. It shall be lawful for the commissioners of her majesty's treasury, if and when they shall think fit, to appoint any proper person or persons for all or any of the purposes following; that is to say,

30 & 31 VICT.
CAP. 104.

Power to
treasury to
appoint persons to inspect
accounts, &c.
of railway
companies
in Ireland.

To inspect the accounts and books of any railway company in Ireland during the period of three years previous to the date of the last half-yearly account of such company;

To examine the railway, stations, works, buildings, engines, carriages, and other property, of whatsoever kind, belonging to any railway company in Ireland;

And any person so appointed may at all reasonable times, upon producing his authority, if required, inspect the books, accounts, and vouchers, and other documents of such company, at the principal place of business of such company, and may take copies or extracts therefrom, and enter upon and examine the railway or railways, and the stations, works, and buildings belonging to such company, and may inspect the engines and carriages and other property, of whatever kind, belonging to such company; and every such person may call for the production of any books, accounts, vouchers, or documents in the possession or power of such company which he may think necessary for the purpose of determining any question or questions connected with the inspection or examination which he is authorized to make, and may examine any person touching any matters connected therewith on oath, and may administer the oaths necessary for that purpose.

POOR LAW AMENDMENT, 1867.

30 & 31 Vict., Cap. 106. An Act to make the Poor Law Board permanent, and to provide sundry amendments in the laws for the Relief of the Poor—[so far as it relates to Railways].
[20th August, 1867.]

Voting of
corporations
and joint
stock com-
panies as
ratepayers.

10. Where any corporation aggregate, joint stock or other company, commissioners, or public trustees, shall be rated, any officer of such corporation, company, commissioners, or public trustees from time to time appointed by the governing body thereof whose name shall be sent in writing to the overseers before the first day of March in any year, to be entered in the rate book under the name of such corporation, company, commissioners, or public trustees, shall be entitled to vote in respect of the property assessed, as if he were assessed in his own name for the same, and in the case of a parish divided into wards shall vote in that ward where the principal office of the corporation, company, commissioners, or public trustees shall be situated, if any, or otherwise in that ward where the greatest part of the property assessed shall be situated.

RESERVE FORCE, 1867.

20 & 31 Vict. Cap. 110. An Act to consolidate and amend the Acts for rendering effective the service of Chelsea and Naval Out-Pensioners, and Pensioners of the East India Company, and for establishing a Reserve Force of men who have been in Her Majesty's service [so far as relates to Railways]. [20th August, 1867.]

16. For the purposes of all enactments relating to turnpike roads and to tolls, the men enrolled and officers and non-commissioned officers appointed under this act while on duty, or going to or returning from any place of training and exercise, or of permanent, voluntary, or other service, shall be deemed soldiers and officers of her majesty on duty, and all such enactments having reference to officers and soldiers on duty shall be construed accordingly; and the enactments for the time being in force concerning the conveyance by railway of her majesty's forces of the line, and their baggage, stores, arms, ammunition, and other necessaries and things, shall apply to the conveyance of the reserve force, their baggage, stores, arms, ammunition, necessaries, and things, and as well with respect to the officers and non-commissioned officers appointed under this act as with respect to the men enrolled in such force.

Provisions of turnpike and railway acts as to soldiers to apply to the force under this act.

7 & 8 Vict. c. 86, s. 12.

CONTAGIOUS DISEASES, ANIMALS, 1867.

80 & 31 Vict., Cap. 125. An Act to continue and amend the Acts relating to Contagious or Infectious Diseases among Cattle and other Animals [so far as relates to Railways].

[20th August, 1867.]

Exception
for railways.

23. The rules of this act with respect to infected places shall not restrict the moving of any animal or thing by railway through an infected place, such animal or thing not being stopped within the infected place.

Cleansing of Pens and Trucks.

Railway
companies to
disinfect
carriages,
boats, &c.

48. It shall be the duty of every railway or other company and every person carrying animals for hire to thoroughly cleanse and disinfect, in such manner as the privy council from time to time by order direct, all pens, carriages, trucks, horse-boxes, vehicles, and boats used by such company or person for the carrying of animals.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this act.

Section ten of the Cattle Diseases Prevention Act, 1866, shall extend to authorize entry by any such person as therein described on premises where he has reasonable grounds for supposing that any such pen, carriage, truck, horse-box, vehicle, or boat is to be found, and that in respect thereof any company or person has on any occasion failed to comply with the requisitions of any such order.

RAILWAY COMPANIES (SCOTLAND), 1867

30 & 31 Vict. Cap. 126. An Act to amend the Law relating to Railway Companies in Scotland [so far as it relates to Railways in England].
[20th August, 1867.]

21. Where a company whose principal office is situate in Scotland have a railway or part of a railway in England the following provisions shall have effect: Provision for case where railway or part in England.

- (1.) Any petition for the approval and confirmation of a scheme under this act shall be presented to the court of session :
- (2.) Where, after the presenting of any such petition, any person who is not amenable to the jurisdiction of the court of session brings an action or institutes any other proceeding against the company in England, the court of chancery may, on the application of the company on summons or motion, in a summary way, restrain the same, on such terms as the court thinks fit :
- (3.) Notice of the presenting of the petition shall be published in the London Gazette, and after such publication no execution, attachment, or other process against the property of the company in England shall be available for any person who is not amenable to the jurisdiction of the court of session without the leave of the court of chancery, to be obtained on summons or motion in a summary way.

[See 33 & 33
Vict., c.
114.]

RAILWAY COMPANIES, 1867.

80 & 31 Vict. Cap. 127. An Act to amend the Law relating to Railway Companies.

[20th August, 1867.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title.

1. This Act may be cited as The Railway Companies Act, 1867.

Extent of act.

2. Except as in this act expressly otherwise provided, this act shall not extend to Scotland.

Interpretation of terms.

3. In this Act—

The term "company" means a railway company ; that is to say, a company constituted by act of parliament, or by certificate under act of parliament, for the purpose of constructing, maintaining, or working a railway (either alone or in conjunction with any other purpose) :

The term "action" includes suit or other proceeding :

The term "judgment" includes decree, order, or rule :

The term "share" includes stock :

The term "person" includes corporation :

The term "court of chancery" or "court" means the court of chancery in England or Ireland, as the case requires :

The term "gazette" means, with respect to England, the London Gazette, and with respect to Ireland, the Dublin Gazette.

Protection of rolling stock and plant.

Restriction on execution against personal property of company.

4. The engines, tenders, carriages, trucks, machinery, tools, fittings, materials and effects, constituting the rolling stock and plant used or provided by a company for the purposes of the traffic on their railway, or at their stations or workshops, shall not, after their railway or any part thereof is open for public traffic, be liable to be taken in execution at law or in equity at any time after the passing of this act, and before the *first day of September, one thousand eight hundred and sixty-eight*, 31 & 32 VICT. c. 127. i.

[Made perpetual by 38 & 39 Vict. c. 31, s. 1.]

where the judgment on which execution issues is recovered in an action on a contract entered into after the passing of this act, or in an action not on a contract commenced after the passing of this act; but the person who has recovered any such judgment may obtain the appointment of a receiver, and, if necessary, of a manager, of the undertaking of the company, on application by petition in a summary way to the court of chancery in England or in Ireland, according to the situation of the railway of the company; and all money received by such receiver or manager shall, after due provision for the working expenses of the railway and other proper outgoings in respect of the undertaking, be applied and distributed under the direction of the court in payment of the debts of the company and otherwise according to the rights and priorities of the persons for the time being interested therein; and on payment of the amount due to every such judgment creditor as aforesaid the court may, if it think fit, discharge such receiver or such receiver and manager.

30 & 31 VICT.
CAP. 127.

5. If in any case where property of a company has been taken in execution a question arises whether or not it is liable to be so taken notwithstanding this act, the same may be heard and determined on an application by either party by summons in a summary way to the court out of which the execution issued, or if the court is one of the superior courts of law, then to a judge of any one of those courts, and such determination shall be final and binding.

Determination of questions respecting executions.

Arrangements.

6. Where a company are unable to meet their engagements with their creditors the directors may prepare a scheme of arrangement between the company and their creditors (with or without provisions for settling and defining any rights of shareholders of the company as among themselves, and for raising, if necessary, additional share and loan capital, or either of them), and may file the same in the court of chancery in England or in Ireland, according to the situation of the principal office of the company, with a declaration in writing under the common seal of the company to the effect that the company are unable to meet their engagements with their creditors, and with an affidavit of the truth of such declaration made by the chairman of the board of directors and by the other directors or the major part in number of them, to the best of their respective judgment and belief.

Preparation and filing of scheme of arrangement.

7. After the filing of the scheme, the court may, on the application of the company on summons or motion

Stay of actions.

20 & 31 VICT.
CAP. 127.

Notice in
gazette.

Stay of
executions
&c.

Assent by
mortgagees,
&c.

Assent by
holders of
rentcharge,
&c.

Assent by
preference
share-
holders.

Assent by
ordinary
share-
holders.

Assent by
leasing com-
pany.

in a summary way, restrain any action against the company on such terms as the court thinks fit.

8. Notice of the filing of the scheme shall be published in the gazette.

9. After such publication of notice no execution, attachment, or other process against the property of the company shall be available without leave of the court, to be obtained on summons or motion in a summary way.

10. The scheme shall be deemed to be assented to by the holders of mortgages or bonds issued under the authority of the company's special acts when it is assented to in writing by three-fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it is assented to in writing by three-fourths in value of the holders of such stock.

11. Where any rentcharge or other payment is charged on receipts of or is payable by the company in consideration of the purchase of the undertaking of another company, the scheme shall be deemed to be assented to by the holders of such rentcharge or other payment when it is assented to in writing by three-fourths in value of such holders.

12. The scheme shall be deemed to be assented to by the guaranteed or preference shareholders of the company when it is assented to in writing as follows:—if there is only one class of guaranteed or preference shareholders, then by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders than one, then by three-fourths in value of each such class.

13. The scheme shall be deemed to be assented to by the ordinary shareholders of the company when it is assented to at an extraordinary general meeting of the company specially called for that purpose.

14. Where the company are lessees of a railway the scheme shall be deemed to be assented to by the leasing company when it is assented to as follows:

In writing by three-fourths in value of the holders of mortgages, bonds, and debenture stock of the leasing company:

If there is only one class of guaranteed or preference shareholders of the leasing company, then in writing by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders in the leasing company than one, then in writing by three-fourths in value of each such class:

20 & 31 VICT. c. 127. iii.

By the ordinary shareholders of the leasing company at an extraordinary general meeting of that company specially called for that purpose.

30 & 31 VICT.
CAP. 127.

15. Provided that the assent to the scheme of any class of holders of mortgages, bonds, or debenture stock, or of any class of holders of a rentcharge or other payment as aforesaid, or of any class of guaranteed or preference shareholders, or of a leasing company, shall not be requisite in case the scheme does not prejudicially affect any right or interest of such class or company.

Assent of
creditors,
&c. not
affected, un-
necessary.

16. If at any time within three months after the filing of the scheme, or within such extended time as the court from time to time thinks fit to allow, the directors of the company consider the scheme to be assented to as by this Act required, they may apply to the court by petition in a summary way for confirmation of the scheme.

Application
for confirm-
ation of
scheme.

Notice of any such application, when intended, shall be published in the gazette.

17. After hearing the directors, and any creditors, shareholders, or other parties whom the court thinks entitled to be heard on the application, the court, if satisfied that the scheme has been within three months after the filing of it, or such extended time (if any) as the court has allowed, assented to as required by this Act, and that no sufficient objection to the scheme has been established, may confirm the scheme.

Confirma-
tion of
scheme.

18. The scheme when confirmed shall be enrolled in the court, and thenceforth the same shall be binding and effectual to all intents, and the provisions thereof shall, against and in favour of the company and all parties assenting thereto or bound thereby, have the like effect as if they had been enacted by parliament.

Enrolment
and effect of
scheme.

19. Notice of the confirmation and enrolment of the scheme shall be published in the gazette.

Notice of
confirmation
of scheme.

20. The company shall at all times keep at their principal office printed copies of the scheme, when confirmed and enrolled, and shall sell such copies to all persons desiring to buy the same at a reasonable price, not exceeding sixpence for each copy.

Company to
keep printed
copies of
scheme for
sale.

If the company fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred, which penalties shall be recovered and applied as penalties under The Railways Clauses Consolidation Act, 1845, are recoverable and applicable.

Penalty for
neglect.

21. Where a company whose principal office is situate

Provision for
cases where

30 & 31 VIOT. CAP. 127. in England have a railway or part of a railway in Scotland the following provisions shall have effect :

railways or part in Scotland.

- (1.) Any scheme under this Act shall be filed in the court of chancery in England :
- (2.) Where, after the filing of the scheme, any person who is not amenable to the jurisdiction of the court of chancery in England brings any action against the company in Scotland, the court of session may, on the application of the company by petition in a summary way, sist, stay, or interdict the same on such terms as the court thinks fit :
- (3.) Notice of the filing of the scheme shall be published in the Edinburgh gazette, and after such publication no diligence against the property of the company in Scotland shall be available for any person who is not amenable to the jurisdiction of the court of chancery in England without the leave of the court of session, to be obtained on petition in a summary way :

In this section the term "court of session" means either division of the court of session, or in time of vacation the lord ordinary officiating on the bills.

General orders for regulation of practice in court of chancery.

22. The lord chancellor of Great Britain, with the advice and assistance of the lords justices of the court of appeal in chancery, the master of the rolls, and the vice-chancellors, or any two of those judges, and the lord chancellor of Ireland, with the advice and assistance of the lord justice of appeal in chancery and the master of the rolls, or one of them, may from time to time make general orders for the regulation of the practice of the courts of chancery in England and Ireland respectively under this Act.

Loan capital.

Priority of mortgages.

23. All money borrowed or to be borrowed by a company on mortgage or bond or debenture stock under the provisions of any act authorizing the borrowing thereof shall have priority against the company and the property from time to time of the company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this act : Provided always, that this priority shall not affect any claim against the company in respect of any rentcharge granted or to be granted by them in pursuance of The Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the company by any

person in pursuance of any act relating to the company which is entitled to rank in priority to, or *pari passu* with, the interest or dividends on the mortgages, bonds, and debenture stock; nor shall anything herein-before contained affect any claim for land taken, used, or occupied by the company for the purposes of the railway, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the company.

30 & 31 VICT.
CAP. 127.

24. Any company may create and issue debenture stock, subject to the provisions of part III. of The Companies Clauses Act, 1863, (relating to debenture stock,) and the said part III. shall, with respect to any special act of a company incorporating that part, whether passed or to be passed, be read and have effect as if the following words, that is to say, "not exceeding the rate prescribed in the special act, and if no rate is prescribed then not exceeding the rate of four pounds per centum per annum," had not been inserted in section twenty-two of that act; and for the purposes of the present section this Act shall be deemed a special act passed incorporating that part; and any special act of a company passed before the passing of this act prescribing any rate shall be read and have effect as if no rate had been prescribed therein.

Power to
issue debenture
stock,
subject to
part III. of
26 & 27 Vict.
c. 118.

25. Provided that any debenture stock the creation whereof has been authorized by a company, but which has not been issued, before the passing of this act, shall not be issued on any terms other than those whereon it might have been issued if this act had not been passed, unless and until the issue thereof on terms other than as aforesaid is after the passing of this act authorized by the company in manner provided in section twenty-two of The Companies Clauses Act, 1863.

Restriction
on rate of in-
terest on de-
benture
stock al-
ready autho-
rized.

26. Money borrowed by a company for the purpose of paying off, and duly applied in paying off, bonds or mortgages of the company given or made under the statutory powers of the company, shall, so far as the same is so applied, be deemed money borrowed within and not in excess of such statutory powers.

Advances to
meet debentures
falling due.

Share Capital.

27. Section twenty-one of the Companies Clauses Act, 1863, shall, with respect to any special act of a company incorporating Part II. of that act, whether passed or to be passed, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof," had not been inserted in that section.

Power to
issue shares
or stock at
discount.

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CAP. 127.

Power to
issue res-
idue of origi-
nal or other
capital at
discount.

Restriction
on issuing
at discount
of shares or
stock al-
ready autho-
rized.

Audit of
railway ac-
counts.

[See 31 & 32
VICT. c. 119,
s. 8.]

28. Any shares forming part of the capital (whether original or additional) authorized to be raised by any special act of a company passed before the present session, which have not been disposed of, may be disposed of in manner provided by Part II. of The Companies Clauses Act, 1863, as amended by this act, and that part, as so amended, shall be deemed incorporated with such special act accordingly.

29. Provided that any shares the creation whereof has been authorized by a company, but which have not been issued, before the passing of this act, shall not be issued on any terms other than those whereon the same might have been issued if this act had not been passed, unless and until the issue thereof on terms other than as aforesaid is after the passing of this act authorized by the company in manner provided by Part II. of The Companies Clauses Act, 1863.

30. No dividend shall be declared by a company until the auditors have certified that the half-yearly accounts proposed to be issued contain a full and true statement of the financial condition of the company, and that the dividend proposed to be declared on any shares is bona fide due thereon after charging the revenue of the half year with all expenses which ought to be paid thereout in the judgment of the auditors; but if the directors differ from the judgment of the auditors with respect to the payment of any such expenses out of the revenue of the half year, such difference shall, if the directors desire it, be stated in the report to the shareholders, and the company in general meeting may decide thereon, subject to all the provisions of the law then existing, and such decision shall for the purposes of the dividend be final and binding; but if no such difference is stated, or if no decision is given on any such difference, the judgment of the auditors shall be final and binding; and the auditors may examine the books of the company at all reasonable times, and may call for such further accounts, and such vouchers, papers, and information, as they think fit, and the directors and officers of the company shall produce and give the same as far as they can, and the auditors may refuse to certify as aforesaid until they have received the same; and the auditors may at any time add to their certificate, or issue to the shareholders independently at the cost of the company, any statement respecting the financial condition and prospects of the company which they think material for the information of the shareholders.

Abandonment.

Provisions
of 13 & 14

31. The Abandonment of Railways Act, 1850, shall 30 & 31 VICT. c. 127. vii.

extend and apply to all companies authorised to make railways by act of parliament passed before the present session, subject and according to the following provisions :

(1.) *Section thirty-one of that act shall be read and have effect as if The Companies Act, 1862, were referred to therein instead of The Joint Stock Companies Winding-up Act, 1848, or any Act amending the same :*

(2.) Section thirty-five of the said act of 1850 shall be read and have effect as if the date of the twenty-first day of May one thousand eight hundred and sixty-seven were therein substituted for the date of the eleventh day of February one thousand eight hundred and fifty :

(3.) Nothing in the said act of 1850 or this act shall be deemed to make it obligatory on the board of trade to authorize the abandonment of a railway or part of a railway on any application in that behalf, and the board of trade shall not authorize such abandonment in any case unless it appears to them just and expedient so to do, and the board of trade may, if they think fit, refuse in any case to authorize such abandonment, except on condition of the money deposited as security for the completion of the railway, or the stocks, funds, or securities on which the same is invested, or the money secured by any bond conditioned for completion of the railway, or for payment of money in default thereof, being applied as part of the assets of the company.

82. Where it is shown to the satisfaction of the board of trade, with respect to a company authorized to make a railway by act of parliament passed before the present session, that no part, or a part less than three fifths, of the share capital of the company, has been subscribed, the board of trade may, if they think fit, proceed under the said act of 1850, as extended by this act, on the application of any person named in the special act incorporating the company as a member or director thereof, or of any person named in the warrant or order directing payment of any deposit under any standing order of either house of parliament, or of any person who has lent the amount of such deposit, or any part thereof, or has entered into any bond conditioned for the completion of the railway, or for payment of any money in default thereof, and without the preliminary consent of a meeting of shareholders of the company.

80 & 31 VICT. c. 127. viii.

30 & 31 VICT.
CAP. 127.

Vict. c. 83,
as to abandonment of railways to apply to all companies authorised to make railways before this session.

(1.) Repealed by
33 & 34 Vict.,
c. 114, s. 10.

Abandonment where three fifths of capital not subscribed.

30 & 31 VICT.
CAP. 127.

Compensation
for
damage to
land by
entry, &c.

Cancellation
of bonds for
completion
of railways,
and release
of deposit.

Protection
for board of
trade in case
of error.

Amendment
(as to rail-

33. The authority given under this act for the abandonment by a company of any railway or part of a railway shall not affect the right of the owner or occupier of any lands that have been temporarily occupied by the company to receive compensation, in accordance with the provisions of The Railways Clauses Consolidation Act, 1845, for such temporary occupation, or for any loss, damage, or injury that has been sustained by him by reason thereof, or of the exercise as regards such lands of any of the company's powers.

34. Where a warrant for abandonment is granted under The Abandonment of Railways Act, 1850, as extended by this act, the commissioners of her majesty's treasury may cancel and deliver up any bond entered into by or on behalf of a railway company for securing the completion of a railway, or, in case the abandonment be of part of the railway only, may cancel and deliver up such bond on receiving another bond in lieu thereof conditioned for payment of a due proportionate part of the amount secured by such former bond; and any money remaining deposited as security for the completion of the railway, or the stocks, funds, or securities in which the same is invested, or any bank annuities, stocks, funds, securities, or exchequer bills remaining deposited as such security, or in case the abandonment authorized is of part only of a railway, then such proportionate part as the board of trade thinks fit of such money, stocks, funds, securities, annuities, or exchequer bills, shall be paid, transferred, or delivered out to the persons who would be entitled to receive the same if the railway had been completed and opened for public traffic; and the court of chancery shall, on the application of those persons, order payment, transfer, or delivery out thereof accordingly, on a certificate of the board of trade certifying that such a warrant for abandonment has been granted.

35. The issuing in any case of any warrant or certificate relating to deposit, or to any money, stocks, funds, securities, bank annuities, or exchequer bills deposited, or any error in any such warrant or certificate, or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the money, stocks, funds, securities, bank annuities, or exchequer bills deposited, or the interest of or dividends on the same, or any part thereof respectively.

Purchase of Land.

36. Where after the passing of this act a company ex-
30 & 31 VICT. c. 127. IX.

ercise the powers conferred on the promoters of the undertaking by section eighty-five of The Lands Clauses Consolidation Act, 1845, the following provisions shall have effect :

30 & 31 VICT.
CAP. 127.

way com-
panies) of
section 85 of
8 & 9 Vict.
c. 18.

- (1.) The surveyor to be appointed as in that section provided shall be appointed by the board of trade instead of by two justices, and all the provisions of that act relative to a surveyor appointed by two justices shall apply to a surveyor so appointed by the board of trade :
- (2.) The company shall give not less than seven days notice of their intention to apply to the board of trade for the appointment of a surveyor to any party interested in or entitled to sell and convey the lands in question, and not consenting to the entry of the company :
- (3.) The valuation to be made by the surveyor so appointed shall include the amount of compensation for all damage and injury to be sustained by reason of the exercise of the powers conferred by the said section, as far as such damage and injury are capable of estimation :
- (4.) The sureties to the bond to be given by the company under that section shall, in case the parties differ, instead of being approved of by two justices, be approved of by the board of trade, after hearing the parties.

37. *Where, in England, under the Lands Clauses Consolidation Act, 1845, or any act incorporating the same, a question of disputed compensation relating to lands required to be purchased or taken by a company is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be settled, as between the parties, by one of the masters of the court of queen's bench.*

Costs of
arbitrations
as to lands.
[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

RAILWAY COMPANIES (IRELAND) TEMPORARY ADVANCES, 1867.

[Repealed
by 29 & 30
Vict. c. 66,
s. 1.]

30 & 31 Vict. Cap. 138. An Act to authorize the Extension of the Period for Repayment of Advances made under The Railway Companies (Ireland) Temporary Advances Act, 1866.

[20th August, 1867.]

29 & 30 Vict.
c. 66.

Whereas it is expedient that the time for repayment of advances made by the public works loan commissioners under The Railway Companies (Ireland) Temporary Advances Act, 1866, should be extended :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as *The Railway Companies (Ireland) Temporary Advances Act, 1867.*

Public
works loan
commissioners may
consent that
time for
repayment
of advances
may be
extended.

2. On the application of any railway company to whom any advance has been or shall be made under the provisions of *The Railway Companies (Ireland) Temporary Advances Act, 1866*, and with the approbation of the commissioners of her Majesty's treasury, and subject to such terms and conditions (if any), as to payment of interest or otherwise, as the last mentioned commissioners may think proper to impose, it shall be lawful for the public works loan commissioners, by any writing under the hand of their secretary for the time being, to consent that the time for repayment of all or any part of the principal money remaining due in respect of any such advance shall be extended to any day not later than twelve calendar months from the day when the same advance shall become due by the terms of the debenture or other security given or to be given for securing the same, and after any such consent shall have been given, and for all the purposes of *The Railway Companies (Ireland) Temporary Advances Act, 1866*, the principal money secured by any debenture or other security given or to be given under that Act shall be deemed to have become due only on the day to which the time for repayment of such principal money shall be extended by any consent to be given as provided by this

[Further ex-
tended by
31 & 32 Vict.
c. 94.]

30 & 31 VICT. c. 138. i.

Act, and all powers and provisions for recovering and compelling payment of such principal money shall be read and have effect accordingly ; provided that in the case of any extension of time for the repayment of any such principal money the rate of interest thereupon until such repayment shall not be less than that at which the advance was originally made.

30 & 31 VICT. c. 138.
CAP. 138.

RAILWAYS (EXTENSION OF TIME), 1868.

[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

31 & 32 Vict. Cap. 18. An Act to give further
Time for making certain Railways.

[29th May, 1868.]

[Amended
by 31 & 32
Vict. c. 119,
s. 46.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Railways (Extension of Time) Act, 1868.

Interpre-
tation of
terms.

2. In this Act—

The term "company" means a railway company ; that is to say, a company constituted by act of parliament, or by certificate under act of parliament, for the purpose of constructing, maintaining, or working a railway (either alone or in conjunction with any other purpose) :

The term "railway" includes "tramway" :

The term "share" includes "stock" :

The term "gazette" means with respect to a railway or works or lands in England the London Gazette, with respect to a railway or works or lands in Scotland the Edinburgh Gazette, and with respect to a railway or works or lands in Ireland the Dublin Gazette.

Power for
Company to
apply to
Board of
Trade for
extension of
time.

3. Where it is desired that the time limited for the completion by a company of a railway, or part of a railway, or of a work, or for the purchase by them of lands for the purpose thereof, be extended, then, subject and according to the provisions of this act, within one year after the passing of this act, an application for that purpose may be made to the board of trade by or on behalf of the company.

Application
only with
assent of
share-
holders.

4. An application under this act shall not be entertained by the board of trade unless it is made with the assent of three-fifths in value of the votes of the holders of the shares in the subscribed capital of the company, recorded at an extraordinary meeting of the company convened for the purpose.

Circular to
share-
holders.

5. Where a meeting is called for the purposes of this act, the secretary of the company shall, seven clear days at least before the day appointed for the meeting, send
31 & 32 VICT. C. 18. i.

by post to each registered shareholder, to his registered or known address, a circular, which shall be in the form given in the schedule to this act, with such variations as circumstances require, and with such modifications (if any) as the board of trade approve.

31 & 32 VICT.
CAP. 18.

6. Each shareholder may signify his assent to or dissent from the proposed application in the manner indicated in the circular sent.

Mode of signification of assent or dissent. Meeting to elect scrutineers. Ascertainment of assents or dissents.

7. At the meeting the shareholders personally present shall elect three shareholders to be scrutineers.

8. The scrutineers shall ascertain and record the proportion of capital held by shareholders assenting, and shall report it to the chairman, who shall announce it to the meeting, and state whether the proposed application is assented to by the requisite proportion or not.

9. In the computation of assents a share shall not be reckoned unless the holder thereof is duly registered, and has paid on all shares held by him all calls due by him made three months or upwards before the day of the meeting or of the presentation to the directors of the requisition (if any) on which the meeting is held.

What shares only to be reckoned.

10. For the purpose of receiving the report of the scrutineers, the chairman may, if he thinks fit, on the application of any one of the scrutineers, and shall, if required by more than one of them, adjourn the meeting to a day appointed by him, being not less than one or more than seven clear days from the day of the meeting.

Adjournment on application of scrutineers.

11. The decision of the scrutineers, or any two of them, on any matter to be decided by them under this act, shall be final.

Decision of scrutineers final.

12. When an application has been made to the board of trade in accordance with this act, then, if it appears to them that there are sufficient grounds for entertaining the application, they shall direct notice of the fact that the application has been made to be given, by or on behalf of the company, by advertisement (in a form approved by the board of trade) once in the Gazette and once in each of three successive weeks in a newspaper published or circulating in each of the counties in which any portion of the railway, part of a railway, works or lands to which the application relates is situate, and by bills affixed, on three successive Sundays, on the principal outer door of the church or churches in every parish in which any portion of the railway, part of a railway, works or lands is situate; and every such notice shall state when and how any person, company, or corporation objecting to the application may bring his objection before the board of trade.

Notice of application in Gazette, &c.

31 & 32 Vict.
CAP. 18.

Extension
of time by
warrant of
Board of
Trade.

13. *The board of trade, on proof to their satisfaction that notice has been duly given, and on the expiration of the time allowed for objections, and after considering the objections (if any), may, if they think fit, by warrant (signed by their secretary or one of their assistant secretaries), according to the nature of the application made to them, and on such terms and conditions (if any) as they think fit, extend the time limited for the completion of the railway, or of any part thereof, or of any works, or may (with or without extension of the time aforesaid) extend the time limited for the purchase of any lands for the purpose of the railway, or of any part thereof, or of any works, for such time in each case as they think fit, not exceeding in any case two years from the expiration of the respective time limited; and every such warrant shall have effect as if the provisions thereof had been enacted by parliament; provided that no such warrant shall be granted unless the board of trade having ascertained the state and condition of the company in the manner provided in the fourteenth section of the Abandonment of Railways Act, 1850, see reason to believe that the company will be able to complete the railway, part of a railway, or works within the extended time named in the warrant, for which purpose the board of trade shall have all the powers of that section, and the provisions of that section shall extend and apply to the case of proceedings under this act.*

13 & 14 Vict.
c. 83.

Notice of
warrant in
Gazette.

14. *Within one month after the warrant is issued by the board of trade they shall give notice thereof in the Gazette.*

Compensation
for extension
of time.

15. *Justices, arbitrators, umpires, and juries, in estimating the compensation to be made by the company to the owners or occupiers of or persons interested in lands, shall have regard to and make compensation for the additional damage (if any) sustained by those owners, occupiers, or persons by reason of any extension of time under this act.*

Saving for
contracts
and notices
before act.

16. *Where, before the passing of this act, a contract has been entered into by a company for the taking of lands for their railway or works, this act shall not authorize, as regards those lands, any extension of the time limited for the purchase of lands; and every such contract shall continue to have effect as if this act had not been passed.*

THE SCHEDULE.

Form of Circular and of Assent or Dissent.

The Railways (Extension of Time) Act, 1868.

The Company.

An extraordinary meeting of the shareholders of this company will be held at _____ on the _____ day of _____

at _____ o'clock, for the purpose of determining whether or not an application shall be made to the board of trade, under the above-mentioned act, for an extension of the time limited by [state the act or acts limiting the time proposed to be extended] for [state the matter to which the limitation relates].

You are requested to signify your assent to or dissent from the proposed application by writing in the fourth column of the following table the word assenting or dissenting, as the case may be, and signing your name thereunder, and by returning this circular, so filled up and signed, to me, so that I shall receive the same on or before the day next preceding the day of the meeting, but if your assent or dissent is not received at latest on the day next preceding the day of the meeting it will not be computed.

Name of Railway.	Name of Shareholder.	Amount of Share Capital held by him.	Whether assenting or dissenting.
•	•	•	†
			(Signed) _____

* The Secretary will insert these particulars.

† In this column the shareholder will write the word assenting or dissenting, as the case may be, and sign his name thereunder.

(Signed)

Secretary.

COTTON STATISTICS, 1868.

31 & 32 Vict. Cap. 33. An Act for the Collection and Publication of Cotton Statistics.

[25th June, 1868.]

WHEREAS it would be of great public advantage if statistical information respecting the quantity of cotton imported into the united kingdom, and the quantity removed (either by sea or land) from and to, and held in stock at, the several ports, were periodically obtained and published by authority: Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

1. This act may be cited for all purposes as the Cotton Statistics Act, 1868.

Interpretation of terms.

2. In this act—

The term "forwarder" shall mean and include every owner or lessee of any railway, canal, or inland navigation who carries or conveys cotton for toll or other consideration from or to any port in the united kingdom.

Forwarders of cotton to make monthly returns to the board of trade.

3. Every forwarder shall on the fourth day of July one thousand eight hundred and sixty-eight, and on the fourth day of every subsequent month, make a return in writing to the board of trade, in such convenient form as the board of trade may order, showing the quantity of cotton forwarded or received by him or them from or to any port in the united kingdom within the then last preceding month.

Publication of information.

4. The several returns made to the board of trade under this act shall be published in the same manner as other statistical information is published by that board.

Penalty.

5. If any such forwarder be summoned by the board of trade to comply with the requirements of this act, and fail to do so, he or they shall for every offence be liable on summary conviction to a penalty not exceeding twenty pounds.

Orders in council for execution of act, &c.

6. It shall be lawful for her majesty in council from time to time to make by order in council such provisions as seem fit for the better execution of this act, and for 31 & 32 VICT. c. 33. i.

otherwise procuring and publishing statistical information respecting the stock of and the importation of cotton into, and the exportation thereof from, and the transport and warehousing thereof within, the united kingdom, and for the publication from time to time of such information. All such orders in council shall be published in the London, Edinburgh, and Dublin Gazettes, and shall be laid before both houses of parliament.

31 & 32 VICT.
CAP. 33.

RAILWAYS TRAVERSE, 1868.

31 & 32 Vict. Cap. 70. An Act to amend "The Railways (Ireland) Act, 1851," "The Railways (Ireland) Act, 1860," and "The Railways (Ireland) Act, 1864," as to the Trial of Traverses. [31st July, 1868.]

14 & 15 Vict.
c. 70.

WHEREAS by the twenty-sixth section of "The Railways Act (Ireland), 1851," it is provided that where the party named in any certificate of the amount of the price or compensation ascertained by any award (or any party claiming under the party so named) should be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies paid into court should be dissatisfied with the amount of the price or compensation in respect of such monies, and where any party interested in land adjoining any railway should be dissatisfied with any award so far as respects any works for the accommodation of lands thereby awarded to be made and maintained by the company, or which such party might claim to have so made and maintained, it should be lawful for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate, or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case might be), upon giving ten days notice in writing previously to such assizes or term respectively to the secretary of the company of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse should be tried in such manner, subject to such regulations, and with such consequences, as in the said act in that behalf respectively mentioned :

33 & 24 Vict.
c. 47.

And whereas by "The Railways Act (Ireland), 1860,"
31 & 32 VICT. c. 70. i.

the said first-mentioned act was amended and made perpetual: 31 & 32 VICT.
CAP. 70.

And whereas by the first section of the Railways Act (Ireland), 1864, it is provided that in all cases where the 27 & 28 VICT.
c. 71.

amount of money which the arbitrator should have awarded to be paid by the company to any person in respect of any estate or interest in lands should exceed the sum of five hundred pounds it should be lawful for the company, if dissatisfied with such award upon giving to such person within ten days next after the date of such award notice in writing of their intention to appeal therefrom, to have a traverse entered by the company in the crown book in respect of such award at the same time and in like manner in all respects as were provided with respect to traverses taken by persons dissatisfied with any award, and the like proceedings should be taken with respect to a traverse so taken by the company, and the verdict of the jury upon such traverse should have the like effect as in the case of a traverse taken by a person so dissatisfied.

And whereas such traverses as aforesaid must at present be tried in the county or county of a city where the lands are situate; and it is expedient to amend the law in that respect in the manner herein-after mentioned :

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act may be cited as "The Railways Traverse Short title. Act."

2. Whenever either party shall be entitled and shall intend to have any such traverse entered under the said recited acts, or any or either of them, or any act already or hereafter incorporating the said acts, or any of them, it shall be lawful for the other party to apply to the court of queen's bench for an order directing such traverse to be entered and tried in some county other than the county or county of a city in which the lands are situate; and if upon such application it shall appear to said court that it will be more convenient or proper or more in furtherance of justice that such traverse should be tried elsewhere than in the county or county of a city where the lands are situate, the said court may order such traverse to be entered and tried in some other county or county of a city to be specified in such order, and thereupon such traverse shall be entered and tried in such other county or county of a city in such manner, and subject to the like regulations, and with the same

Provision
for trial of
traverse in
county other
than that in
which lands
are situate.

31 & 32 VICT. c. 70. ii.

31 & 32 VICT.
CAP. 70.

consequences, and the verdict and proceedings shall have the like effect, as if the lands were situate in the county or county of a city in which such traverse shall under such order be so entered and tried.

When appli-
cation for
trial of tra-
verse to be
made.

3. Such application may be made either before or after the ten days notice shall have been given, and before or after such traverse may have been entered for the county or county of a city where the lands are situate, and notwithstanding that such traverse may have been respited from an assizes or term previously to such application; and in case such order shall have been made after the entry of the traverse in the county or county of a city in which the lands are situate, no trial shall be had upon such entry. The said court may make such order as it may deem fit respecting the costs of such application, or any costs to be incurred by reason of such change of the place of trial or otherwise incidental to such order as aforesaid, and may, in making such order and in respect thereof, impose such terms upon either party as justice may require.

Construction
of acts.

4. This act and the said recited acts shall be read together as one act, and this act shall be held to be incorporated with each of the said recited acts in any act already or hereafter incorporating the said recited acts, or any of them, and shall apply to traverses of awards made before the passing of this act in respect of which the right of traverse shall still subsist.

Jurisdiction
out of term
time,

5. The jurisdiction hereinbefore conferred upon the court of queen's bench may out of term be exercised by any judge of that court, or any judge having for the time being jurisdiction to entertain and determine a motion to change the venue in any action depending in said court.

RAILWAY COMPANIES, 1868.

31 & 32 Vict. Cap. 79. An Act to further amend
the Law relating to Railway Companies.

[31st July, 1868.]

BE it enacted by the queen's most excellent majesty, by
and with the advice and consent of the lords spiritual
and temporal, and commons, in this present parliament
assembled, and by the authority of the same, as follows:

1. Section four of the Railway Companies Act, 1867, and section four of the Railway Companies (Scotland) Act, 1867, shall be read and have effect as if the first day of September one thousand eight hundred and seventy were therein mentioned instead of the first day of September one thousand eight hundred and sixty-eight.

Continuance
of restriction
on execution
against
property.
30 & 31 Vict.
cc. 126, 127.

2. This Act may be cited as "The Railway Companies Act, 1868."

Short title.

PORTPATRICK AND BELFAST AND COUNTY DOWN RAILWAYS, 1868.

—

81 & 82 Vict. Cap. 81. An Act to authorize Loans of Public Money to the Portpatrick and the Belfast and County Down Railway Companies, and a Payment to the Portpatrick Company in consequence of the Abandonment of the Communication between Donaghadee and Portpatrick.
[31st July, 1868.]

WHEREAS the treasury minute set out in the schedule to this Act annexed was passed on the fifteenth day of August one thousand eight hundred and fifty-six :

**20 & 21 Vict.
c. 149 [local].** And whereas by an act of parliament passed in the twentieth and twenty-first years of her majesty, intituled "An Act to authorize the Construction of a Railway from Castle Douglas in the Stewartry of Kirkcudbright to Portpatrick in the County of Wigtown," the persons therein named were incorporated by the name of "The Portpatrick Railway Company," and it is by the said act amongst other things provided, that if the railway and branch railway by the said act authorized should not be completed and opened to the public within the period of five years from the passing of the said act, then and from thenceforth it should not be lawful for the company or the directors thereof to pay any dividend to the shareholders until such railway and branch railway to the North Pier at Portpatrick Harbour should have been completed and opened for public traffic, and the Belfast and County Down Railway Company contributed a sum of fifteen thousand pounds towards the said undertaking, as by the said act required :

And whereas by a further treasury minute, bearing date the twenty-first day of July one thousand eight hundred and fifty-seven (previously to the passing of the said act), their lordships had approved of the said last-recited clause being inserted therein, and stated that immediately on the passing of the said act their lordships would be prepared, in communication with the railway company, to take such steps as should be required in order to secure the completion of the works in the said harbour of Portpatrick, so that they should be concluded at least as soon as the railway company should be in a condition to use it in connexion with their line :

81 & 82 VICT. c. 81. i.

And whereas by an act passed in the eighteenth year of the reign of her present majesty, intituled "An Act to enable the Belfast and County Down Railway Company to extend their Railway in the County of Down," it was provided that in case the railways by the said act authorized should not be completed and opened for public traffic within a period of five years from the passing of the said act, then and from thenceforth it should not be lawful for the company or the directors thereof to pay any dividend to the shareholders on the ordinary or unguaranteed capital of the company until such railways should have been completed and open for public traffic, and the time for completion of said railways was, by a further act of the twenty-first and twenty-second of her majesty extended to the thirty-first day of July one thousand eight hundred and fifty-nine :

81 & 82 Vict.
CAP. 81.

18 & 19 Vict.
c. 18 [local].

And whereas both the said railways have been completed by the said companies respectively, making on the one side a railway communication with the harbour of Portpatrick, and on the other with the harbour of Donaghadee, and the said companies were induced to make the said railway communication on the faith of the said recited treasury minute of the fifteenth day of August one thousand eight hundred and fifty-six, and for the purposes of the said railway works the said companies have borrowed large sums of money on the security of their debentures :

And whereas, at the time of the said herein-before recited minute of the fifteenth day of August one thousand eight hundred and fifty-six, the works of the harbour of Portpatrick were estimated to cost a sum not exceeding the sum of twenty thousand pounds, and the lords commissioners of the admiralty proceeded with the execution of the works so estimated ; but, notwithstanding an expenditure of public money far exceeding the said sum has been made, it has been reported that the harbour of Portpatrick is quite unsuited for a speedy and punctual service, and that it could not at any reasonable cost be rendered suitable for the service proposed :

And whereas the payment of a subsidy for the proper maintenance of a mail service between the said ports of Donaghadee and Portpatrick would be quite out of proportion to and far exceed any advantage to be gained by such service :

And whereas under the circumstances herein-before stated it has been considered expedient to abandon the establishment of a mail service between the said ports of Donaghadee and Portpatrick, and inasmuch as such abandonment will seriously and most injuriously affect

81 & 82 VICT.
CAP. 81.

the interests of the said two railway companies, to a great extent rendering unprofitable and worthless the expenditure which has been incurred in making the railways herein-before mentioned, it is considered that both said companies, under the circumstances herein-before stated, have just and fair claims to the consideration of parliament, and for the adjustment thereof it has been proposed by the said companies respectively, and (subject to the approval of parliament) agreed to by the lords commissioners of her majesty's treasury, that such claims should be settled and arranged as is herein-after provided :

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Power to charge not exceeding £330,000 upon the consolidated fund for the purpose of loans by this act authorised.

1. For the purposes of the loans by this act authorised the commissioners of her majesty's treasury may from time to time, by warrant under the hands of two or more of them, cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, to the account of the commissioners for the reduction of the national debt any sum or sums of money not exceeding in the whole the sum of three hundred and twenty thousand pounds, such money to be applied exclusively under this act, and be at the disposal of the public works loan commissioners in like manner in all respects as money placed at their disposal under the act of the session of the twenty-fourth and twenty-fifth year of her majesty, chapter eighty, and the acts therein recited, subject nevertheless to the provisions of this act, which provisions shall have full effect notwithstanding anything in the "Public Works Loan Act, 1853," or any act therein mentioned, to the contrary contained.

Power to Public Works Loan Act extended to this act.

2. All the several clauses, powers, authorities, provisions, enactments, directions, regulations, restrictions, privileges, priorities, advantages, penalties, and forfeitures contained in and conferred and imposed by the said acts or any of them, so far as the same may be made applicable and are not varied by this act, shall be taken to extend to this act, and to everything to be done in pursuance of this act, as if the same were herein repeated and set forth.

Power to Portpatrick company to borrow from the public works loan commissioners.

3. It shall be lawful for the said Portpatrick company to borrow on mortgage, and for the public works loan commissioners, out of the funds at their disposal under this act, to lend and advance to the said last-mentioned company (under the direction and with the consent of
81 & 82 VICT. c. 81. iii.

the commissioners of her majesty's treasury), a sum not exceeding in the whole the sum of one hundred and fifty-three thousand pounds on the security of the said company's railway works and undertaking, as well as all rates, rents, tolls, and profits, and all other property of the said company, the said sum of one hundred and fifty-three thousand pounds to be the first charge thereon, and to be repaid by equal half-yearly instalments within a period of thirty-five years from the date of such advances, together with interest at the rate of three pounds ten shillings per centum per annum on the said sum of one hundred and fifty-three thousand pounds, or on such part thereof as may from time to time remain due and unpaid.

31 & 32 VICT.
CAP. 81.

4. Such portion of the said sum of one hundred and fifty-three thousand pounds as may be requisite for the purpose shall be applied in discharge of all existing debts of the said company secured either by way of mortgage, debenture, or otherwise howsoever, and the balance of the said sum shall be applied by the said company for the general purposes of their undertaking.

Application
of said sum.

5. It shall be lawful for the said Belfast and County Down Railway Company to borrow on mortgage, and for the said public works loan commissioners, out of the funds at their disposal under this act, to lend and advance to the said last-mentioned company (under the direction and with the consent of the commissioners of her majesty's treasury (a sum not exceeding the sum of one hundred and sixty-six thousand pounds on the security of all and every the said company's railway works and undertaking, as well as on all rates, rents, tolls, and profits, and all other property of the said company, the said sum of one hundred and sixty-six thousand pounds to be the first charge thereon, and to be repaid by equal half-yearly instalments within a period of thirty-five years from the date of such advance, together with interest thereon at the rate of three pounds ten shillings per centum per annum on the said sum of one hundred and sixty-six thousand pounds, or on such part as may from time to time remain due and unpaid.

Power to the
Belfast and
County
Down com-
pany to
borrow on
mortgage.

6. The said sum of one hundred and sixty-six thousand pounds to be applied in the discharge of all existing debts of the said company, whether secured by mortgage, debenture, or otherwise however.

Application
of monies
borrowed.

7. It shall be lawful for the lords commissioners of her majesty's treasury, out of monies to be provided by parliament for the purpose, to pay, by way of free grant, to the said Portpatrick railway company a sum not exceeding the sum of twenty thousand pounds.

Treasury to
pay the Port-
patrick com-
pany a sum
not exceed-
ing £20,000.

SCHEDULE referred to in the foregoing Act.

Treasury Minute, dated August 15, 1856.

My Lords have under their consideration several memorials, signed by persons interested in the communication between the north of Ireland and Scotland, and praying that their lordships will take measures to determine the ports best adapted for the establishment of a short sea passage between the two countries, with a view to promote the quickest postal and passenger communication.

One of these memorials prays for a public loan to the County Down Railway Company, in order to enable them to complete their line to Donaghadee.

Fully recognizing the great advantages which would be derived by the extensive manufacturing Districts in the north of Ireland, in the west of Scotland, and in the north of England, by establishing a communication between the two ports which should reduce the sea passage to the shortest possible time, and in connection with a system of railways on both sides, which to a certain extent already exists and the completion of which my lords understand is in contemplation, by which a direct communication will be opened between all the above important districts, my lords referred the subject to the Admiralty, for their lordships' opinion upon the nautical questions raised in the memorials.

My lords have now before them the reply of the Admiralty, in which the Lords Commissioners report, that the most favourable ports for the establishment of a short sea passage are those of Portpatrick and Donaghadee; and they suggest that instructions should be given to them to institute an inquiry as to the best and cheapest manner in which those ports may be made suitable for the purpose. These instructions my lords have already issued.

Before any expense, however, is incurred, it becomes necessary that my lords should clearly state their views upon the subject, for the information of all the parties who have appeared before them, either by memorial or by personal application, and of others who take an interest in it.

It has been represented to my lords that in the event of the Government deciding upon the best ports for the passage referred to, and especially in the case of Portpatrick and Donaghadee being adopted, and provided the Government should be willing to use it as a mail communication, that, in the first place, a steam boat service, suited both for passengers and mails, would be established by a private company, without any aid from the government except a fair price for carrying the mails; and that, in the second place, the railways on each side of the channel would be completed so as to connect Donaghadee on the one side with Belfast and the main line and Portpatrick on the other side with Glasgow to the north, and with Dumfries to the east, by which all the important objects in view would be fully attained. All this, it has been understood, will be performed by private enterprise, if only the government, on its part, will—

31 & 32 VICT. c. 81. v.

1. Determine the ports most suitable for the service.
2. Adopt the line between such ports as a mail passage.
3. Make such improvements in the ports as shall best fit them for the purpose.

These conditions my lords are prepared to adopt. They have already, upon the advice of the admiralty, decided that the best ports will be Portpatrick and Donaghadee, and have instructed the lords commissioners to report upon the improvements and alterations required to render them suitable for the service, and when a steam service shall be established for carrying the mails they will be prepared to use it for that purpose upon fair and reasonable terms.

But, before my lords proceed actually to incur any expense upon the ports named for their improvement in pursuance of any report that may be made by the admiralty, it will be quite necessary that they should be well satisfied that all the arrangements herein referred to, and which would be necessary to give public utility to the scheme, will be completed.

With regard to the memorials for aid in completing the Railways by a public loan there is no fund disposable for such a purpose except that annually voted by parliament for public works and administered under this board by commissioners appointed for the purpose. It will, therefore, be necessary for those requiring such a loan to apply to the public loan commissioners, with whom rests the responsibility of judging of the security to be accepted in such cases, and who alone can determine how far the other demands upon the fund at their disposal will enable them to entertain the requests.

Let a copy of this minute be forwarded to the chief secretary for Ireland, to the chamber of commerce, Belfast, to the other memorialists, and to the postmaster general.

RAILWAY COMPANIES (IRELAND) TEMPORARY ADVANCES, 1868.

31 & 32 Vict. Cap. 94. An Act to authorize the further Extension of the Period for Repayment of Advances made under the Railway Companies (Ireland) Temporary Advances Act, 1866.

[31st July, 1868.]

**30 & 31 Vict.
c. 138.**

WHEREAS by the Railway Companies (Ireland) Temporary Advances Act, 1867, the time for repayment of advances made by the public works loan commissioners under the Railway Companies (Ireland) Temporary Advances Act, 1866, was authorized to be extended as therein mentioned, and it is expedient that the time for repayment of the said advances should be further extended:

**29 & 30 Vict.
c. 96.**

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

1. This act may be cited as "The Railway Companies (Ireland) Temporary Advances Act, 1868."

**Public
works loan
commis-
sioners may
consent that
time for
repayment
of advances
may be
further ex-
tended.**

2. On the application of any railway company to whom any advance has been made under the provisions of the Railway Companies (Ireland) Temporary Advances Act, 1866, and with the approbation of the commissioners of her majesty's treasury, and subject to such terms and conditions (if any) as to payment of interest or otherwise as the last-mentioned commissioners may think proper to impose, it shall be lawful for the public works loan commissioners, by any writing under the hand of their secretary for the time being, to consent that the time for repayment of all or any part of the principal money remaining due in respect of any such advance, shall be extended to any day not later than twelve calendar months from the day when the same advance shall become due by the terms of the debenture or other security given for securing the same, or to any day not later than twelve months from the day when the same advance shall become due under any extension of

31 & 32 VICT. c. 94. i.

time granted under the authority of the recited act; and after any such consent shall have been given, and for all the purposes of the Railway Companies (Ireland) Temporary Advances Act, 1868, the principal money secured by any debenture or other security given under that act shall be deemed to have become due only on the day to which the time for repayment of such principal money shall be extended by any consent to be given as provided by this act, and all powers and provisions for recovering and compelling payment of such principal money shall be read and have effect accordingly.

31 & 32 VICT.
CAP. 94.

TELEGRAPH, 1868.

31 & 32 Vict. Cap. 110. An Act to enable Her Majesty's Postmaster General to acquire, work, and maintain Electric Telegraphs.

[31st July, 1868.]

WHEREAS the means of communication by electric telegraphs within the United Kingdom of Great Britain and Ireland are insufficient, and many important districts are without any such means of communication :

And whereas it would be attended with great advantage to the state, as well as to merchants and traders, and to the public generally, if a cheaper, more widely extended, and more expeditious system of telegraphy were established in the United Kingdom of Great Britain and Ireland, and to that end it is expedient that her majesty's postmaster general be empowered to work telegraphs in connexion with the administration of the post office :

May it therefore please your majesty that it may be enacted ; and be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title. 1. This act may be cited as "The Telegraph Act, 1868."

Provisions of 26 & 27 Vict. c. 112. Incorporated 2. The Telegraph Act, 1863, shall be incorporated with this act, except so far as the same, or any part thereof, may be expressly varied, altered, or be inconsistent with this act ; and the term "the company," in the Telegraph Act, 1863, shall, in addition to the meaning assigned to it in that act, mean the postmaster general.

Interpretation of terms. 3. Terms to which meanings are assigned by the Telegraph Act, 1863, have in this act the same respective meanings ; and the word "land" in such last-mentioned act shall, in addition to the meaning thereby assigned to it, include any term, estate, easement, interest, right, or privilege, in, over, or affecting land, and shall include 31 & 32 Vict. c. 110. i.

the works, tubes, wires, posts, and other property purchased or acquired by the postmaster general.

31 & 32 Vict.
CAP. 110.

In this act:—

The term "the undertaking" shall mean the whole or any part of the electric and other telegraphs, wires, posts, pipes, tubes, and other works, instruments, materials, lands, tenements, hereditaments, and buildings, parliamentary, prescriptive, and other rights, powers, privileges, patents, and all other property whatsoever of any company, corporation, or persons engaged in the United Kingdom of Great Britain and Ireland in transmitting messages for money or other consideration by means of electric or other telegraphs:

The term "any company" shall mean any company, corporation, or persons now engaged in the United Kingdom of Great Britain and Ireland in transmitting, or authorized to transmit, messages for money or other consideration, by means of electric or other telegraphs, or mechanical agencies, and each and every of those companies.

Purchase.

4. It shall be lawful for her majesty's postmaster general and he is hereby authorized, with the consent of the lords commissioners of her majesty's treasury, from time to time, out of any monies which may be from time to time appropriated by act of parliament and put at his disposal for that purpose, to purchase for the purposes of this act, the whole, or such parts as he shall think fit, of the undertaking of any company, and any undertaking, and all other property purchased under the powers of this act, shall be vested in and held by her majesty's postmaster general, in his corporate capacity, and his successors: provided always, that no such purchase be made, and that no agreement other than the agreements confirmed by this act for any such purchase be binding, unless the said agreement, accompanied by a minute from the commissioners of her majesty's treasury, in which the grounds of the agreement shall be set forth shall have lain for one month on the table of both houses of parliament without disapproval.

Power to
postmaster
general to
purchase
under-
takings of
telegraph
companies.

Sale.

5. Any company, with the authority of two thirds of the votes of their shareholders present in person or by proxy at a general meeting of the company specially convened for the purpose, may sell all or any portion of their undertaking to the postmaster general for such sum

Power to
telegraph
companies
to sell their
undertak-
ings to the
postmaster
general.

31 & 32 VICT.
JAF. 110.



of money as may be mutually agreed upon between the postmaster general and the company; and the execution by any company under their common seal of a conveyance to the postmaster general, duly stamped, of their undertaking, shall be sufficient to vest the same in the postmaster general for all the estate, right, title, and interest of the company therein, with all incidental rights, privileges, and easements, and the same may be used, exercised, and enjoyed by the postmaster general in the same manner and to the same extent as the same respectively are, or if this Act had not been passed might be held, used, exercised, or enjoyed by any company, and the receipt of two of the Directors of any company for the purchase money, endorsed upon the deed of conveyance, shall be a sufficient discharge for the same to the postmaster general, who shall not be bound to see to the distribution thereof.

Acts, &c. of
companies
selling their
under-
takings to
remain in
force, and
the powers
thereof to be
exercised by
the Postman-
ter General.

6. All acts, charters, and grants, and all valid deeds and agreements made to, from, by, or with any company whose undertaking shall be sold and conveyed to the postmaster general under the powers of this Act shall (except as far as they are by this act expressed to be varied or repealed, or are inconsistent with the provisions of this act,) remain in full force, and all matters to be done, continued, or completed, or which, but for the passing of this act, would, might, or could be done, continued, or completed by or against the company so selling their undertaking, their officers or servants, shall or may (as the case requires) be done, continued, or completed by or against the postmaster general, his officers and servants, and those acts, charters, grants, deeds, and agreements shall be construed as if the postmaster general had been named therein instead of the company so selling their undertaking; and it shall be lawful for any person to enforce any such act, charter, grant, deed, or agreement by action, suit, or other legal proceeding against the postmaster general in the same court, and in the same manner, and with the same rights and liabilities to pay costs and otherwise, as if this act had not been passed.

Companies
may require
postmaster
general to
purchase
their under-
taking under
certain cir-
cumstances.

7. If the postmaster general shall acquire any one undertaking under the powers of this act he shall, upon the request, in writing, of any company possessing an undertaking established by special act of parliament or royal charter at the time of the passing of this act, purchase the undertaking of such company, upon terms to be settled (failing agreement) by arbitration, provided such request be made within twelve calendar months after the postmaster general shall have so acquired any one undertaking; and any railway company possessed

of a telegraph open to the use of the public on the first of January one thousand eight hundred and sixty-eight for transmitting messages for money, or possessing any beneficial interest in such telegraph, shall be included in this provision, and any such railway company shall be entitled upon a like request, in writing, to require the postmaster general to purchase the right of such railway company to transmit such messages or other beneficial interest.

81 & 82 VICT.
CAP. 110.

Railway
companies
included in
provision
as to their
telegraphs.

Provided always, that nothing in this act shall enable the postmaster general to purchase the undertakings of the Atlantic telegraph company or of the Anglo-American telegraph company (limited), or any part of such undertakings.

8. With respect to the purchase of the undertakings of the Electric and International Telegraph company, the British and Irish Magnetic Telegraph company, and the United Kingdom Electric Telegraph company (limited), be it enacted as follows:

Provision as
to purchase
of certain
under-
takings here-
in named.

(1.) Each of the three companies may, with the authority of two thirds of the votes of its shareholders, present in person or by proxy at a general meeting of the company specially convened for the purpose, sell and convey, and the postmaster general shall upon demand of the company under its common seal purchase, the whole undertaking of the said company:

(2.) The price to be paid by the postmaster general to each company for its undertaking shall be twenty years purchase of the net profits during the year ending on the thirtieth day of June one thousand eight hundred and sixty-eight from the undertaking so conveyed; and in the case of the United Kingdom company there shall be paid in addition to the amount aforesaid—

First, the price paid by the company for the patent of "Hughes's Type-printing Telegraph," such price not to exceed twelve thousand pounds;

Secondly, a sum equal to the estimated aggregate value of the quoted ordinary share capital of the company reckoned on the highest quotation shown in the official lists of the London stock exchange on any day between the first and the twenty-fifth days of June one thousand eight hundred and sixty-eight; and

Thirdly, compensation for the loss of the prospective profits of the company on the ordinary

31 & 32 Vict.
CAP. 110.

shares, and any sum that may be determined upon in consideration of the efforts made by the company to establish an uniform shilling rate for the conveyance of telegraphic messages:

- (3.) If any difference arises between the postmaster general and any of the said companies concerning the amount of such net profits as aforesaid, or in the case of the United Kingdom company as to the price paid for "Hughes's Type-printing Telegraph," or as to the estimated aggregate value of the share capital or the compensation for the loss of prospective profits, or the sum to be paid in consideration of the efforts of the company to establish an uniform shilling rate, every such difference shall be settled by arbitration in the manner prescribed by the "the Companies Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration, and the provisions of that Act with respect to arbitration shall be deemed to be incorporated with this Act:
- (4.) The purchase money and compensation to be paid by the postmaster general under the provisions aforesaid shall be paid to the directors of each company, and the receipt under the common seal of the company, countersigned by the chairman or deputy chairman and by the secretary thereof, shall be a sufficient discharge to the postmaster general for the amount therein specified to be received; and the postmaster general shall not be required to see to the application of the sums so paid or be responsible for the misapplication thereof:
- (5.) The amounts so received by the directors of each company shall, together with all undivided profits and any monies in the hands of or due to the company up to the date of transfer, be applied by them in the first place in discharge of all the debts of the same company, and in payment of any sums that may be voted by the shareholders for payment for or in recognition of special services rendered to the company, and after such discharge the residue shall be distributed among the shareholders of that company in such proportion and in such manner in all respects as the arbitrator herein-after named shall award and determine after

6 & 9 Vict.
c. 16.

81 & 82 VICT.
CAP. 110.

dne consideration of the circumstances under which each class of shares was created, and after hearing such of the parties interested as shall upon notice of the appointment for that purpose advertised for two successive days in the Times newspaper published at London at least ten days before the day of such hearing appear and desire to be heard. The arbitrator before referred to shall be the most honourable Robert Arthur Talbot marquis of Salisbury, or him failing, John Hawkshaw, Esquire, or him failing, a single arbitrator to be appointed by the board of trade at the request of the directors of each company in writing under its common seal; the award of such arbitrator shall be final and absolute, and the directors shall distribute among the shareholders the residue of the said purchase money and compensation in strict and absolute conformity with such award; and all the costs, charges, and expenses of and incident to any and every such arbitration shall be paid by the company requiring the same:

- (6.) In the case of the United Kingdom company, with regard to their six per cent. debenture debt, the arbitrator shall before distribution of the residue among the shareholders consider and determine whether the holders of such stock ought or not to receive any and what amount beyond the naked debt and interest in respect of the conditions attaching to such stock, and he shall award accordingly:
- (7.) Every officer and clerk of any company, the undertaking of which may be so purchased, who has been not less than five years in the service of Telegraph companies, and in the receipt of a yearly salary, or who has been not less than seven years in the service of Telegraph companies, is in receipt of remuneration at a rate of not less than fifty pounds a year, shall, if he receives no offer of an appointment by the postmaster general, in the telegraphic department, which shall be deemed by an arbitrator appointed by agreement, or, failing agreement, appointed by the recorder of London for the time being, to be of equal value to the appointment held by him under any company, receive during his life from the postmaster general, by way of compensation for the loss of his office, from the time at which

81 & 82 VICT.
CAP. 110.

the government takes possession of the company's Telegraph, an annuity payable half-yearly, equal, if he shall have been in the service of Telegraph companies twenty years, to two thirds of the annual emolument derived by him from his office on the twenty-fourth day of June one thousand eight hundred and sixty-eight, and with respect to any such person who has been in such service less than twenty years the said annuity shall be diminished at the rate of one twentieth for every year less than twenty years during which he has been in such service; such officers and clerks as enter into the service of the postmaster general shall be entitled to count their past years of continuous service with the Telegraph companies as years passed in the civil service of the crown, and all such officers and clerks upon their appointment be deemed to be, to all intents and purposes, officers and clerks in the permanent civil service of the crown, and shall be entitled to the same but no other privileges.

Postmaster
general to
enter into
contracts
with certain
railway
companies.

[See 41 & 42
Vict. c. 76,
s. 6.]

9. Whereas the railway companies in the United Kingdom are for the most part either themselves owners of telegraphs which are used for the conveyance of public messages, and which are also essential for the safe conduct of the traffic on their respective undertakings, or they have contracts for various terms of years with telegraph companies, whose telegraphic apparatus is placed in the stations and along the railways and canals of the railway companies, by which contracts provision is made with respect to the matters aforesaid: and, whereas, with certain railway companies agreements have been entered into by the postmaster general (subject to the approbation of parliament), which agreements are referred to in schedules to this act, and it is expedient that with respect to certain other railway companies, namely, the London and North-western, the Midland, the Lancashire and Yorkshire, the Great Northern, the Manchester, Sheffield, and Lincolnshire, the North Staffordshire, the Great Eastern, the London, Brighton, and South Coast, the Metropolitan, the Metropolitan District, the Metropolitan and St. John's Wood, the Highland, the Sutherland, the Leven and East of Fife, the Glasgow and South-western, and the Great North of Scotland, the provisions herein-after contained be made as to the undertakings belonging separately to the said companies or held by them jointly with any other com-

pany, or held by them respectively on lease: be it there- 31 & 32 VICT.
CAP. 110.
fore enacted as follows:—

- (1.) The postmaster general shall give to each railway company three months notice before he acquires the undertakings of any of the telegraph companies with which the railway company has agreements; and on the expiration of such notice such agreements shall cease and determine:
- (2.) On such acquisition as aforesaid all the posts, wires, instruments, and other telegraphic apparatus belonging to the railway company, and also all posts, wires, instruments, and other telegraphic apparatus belonging to the telegraph companies on the railway company's lines and canals which are necessary for establishing a complete system of telegraphy in connexion with the working of trains and the traffic of the lines and canals, shall become the absolute property of the railway company, and shall be handed over to them by the postmaster general free of charge in efficient working order, so that the railway company may be in a position at once to take up and carry on their own telegraph work on their own system, and thereafter the said posts, wires, instruments, and other telegraphic apparatus shall be maintained and worked by the railway company:
- (3.) On such acquisition as aforesaid the postmaster general shall be entitled to use from telegraph stations not on the lines of railway all the wires belonging to the respective telegraph companies on the line, and employed exclusively in the transmission of the public telegraph business, which are erected on the poles to be handed over to the railway company under paragraph (2); and he, at his cost, shall also be entitled to call upon the railway company to erect and maintain additional wires on the said poles, provided they are sufficiently strong and high for the purpose; and also to erect new poles at places to be agreed upon with wires over any of the lines and canals of the company, but so that such new poles shall not interfere in any way with the convenience or working of the railway or canals of the company, or obstruct the working of the traffic thereon. The railway company shall maintain all the posts and wires used for public mes-

sages, the postmaster general paying for the same as may be agreed or settled by arbitration :

- (4.) The postmaster general may require the railway company to affix wires to existing posts (if they can bear them), and the company may have a like power to affix wires to the posts belonging from time to time to the postmaster general, if sufficient for the purpose, and the cost of maintenance of such posts shall be divided between the postmaster general and the company, in proportion to the number of wires belonging to each on each post :
- (5.) The railway company may shift the poles, wires, and apparatus belonging to the postmaster general when necessary for the purposes of their works or traffic ; but in all such cases the postmaster general shall pay to the railway company the actual costs incurred in shifting such poles and apparatus, but if such poles support the wires of the railway company and of the postmaster general, the cost of shifting the same shall be apportioned according to the number of wires belonging to or respectively used by the railway company and the postmaster general.
- (6.) The postmaster general shall pay the railway company the following sums by way of compensation :—
 - a. Twenty years purchase of the amount of the net annual receipts (if any) of public telegraph messages received and forwarded by the railway company on their own account, reckoned on a basis of the receipts derived therefrom over a continuous period of twelve months prior to the thirtieth day of June, one thousand eight hundred and sixty-eight :
 - b. Twenty times the amount of the estimated annual increase, calculated upon the average increase of the preceding three years of the said receipts from telegraphic messages, or where the business has been commenced within three years calculated upon the increase during such shorter period, such annual amount in case of difference to be settled by arbitration :
 - c. All rents and annual or other payments

payable to the railway company by public telegraph companies during the still unexpired periods embraced in their respective agreements, and at the terms mentioned in said agreements respectively:

31 & 32 VICT.
CAP. 110.

- d. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, in respect of the loss by the railway company of the privilege of granting other wayleaves and making future arrangements with telegraph or other companies, and in respect of granting a monopoly to the postmaster general for the conveyance of telegraphs over their railways as herein provided for:
- e. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, as the value of the railway company's reversionary interest (if any) in the telegraph receipts from public messages on the expiration of the agreements with the respective telegraph companies:
- f. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, for the loss occasioned by removal of any clerks now provided by the telegraph company, and for any extra cost which the railway company may incur in working their telegraph for railway purposes as a separate system:
- g. The postmaster general shall transmit to their respective destinations all messages of the railway company in any way relating to the business of the company to and from any "foreign stations" in the United Kingdom free of charge:
- h. On such acquisition as aforesaid, the postmaster general shall, as herein provided, have a perpetual right of way for his poles and wires over the whole of the railway company's system, and in consideration thereof he shall pay to the railway company such sum per mile per wire over the whole of the said system, by way of yearly rent, as shall be deter-

mined by agreement between the parties, or failing agreement, as shall be fixed by arbitration :

The arbitrator, in determining the amounts to be paid to the railway company under this act, shall have regard to the agreements which subsist between the railway company and any telegraph company, and also to a compulsory sale being required from the railway company ; and in estimating the amount to be paid under any one part of this section shall have regard to the advantages to be obtained and the disadvantages to be sustained by the railway company under any other part of this section :

- (7.) The railway company shall, if required by the postmaster general so to do, from time to time, at such times and under such regulations as shall be agreed upon, receive messages for transmission by the public or private telegraph wires (but if the latter, the railway messages to have priority), and shall at the postmaster general's sole risk and expense transmit the same either to their place of destination, if upon the company's lines, or to some convenient post office as shall be arranged, and in respect of such receipt and transmission the company shall act as agents of the postmaster general, and shall receive in respect thereof such remuneration as shall be agreed upon, or in case of difference as shall be from time to time settled by arbitration. The postmaster general to provide the necessary instruments at the railway company's stations for the public wires, such instruments to be maintained by the railway company at the expense of the postmaster general :
- (8.) The railway company may, notwithstanding anything in this act contained, and without payment to the postmaster general, from time to time make arrangements with coalmasters, ironmasters, and traders generally upon the company's system for the erection and working of private telegraphs between coal-pits, ironworks, factories, warehouses, and offices in connexion with the stations of the company, or over their line ; but such telegraphs shall be used for the transaction of private business only, and no money payment

shall be made or received in respect thereof ^{21 & 22 Vict. CAP. 110.}
except by way of annual rent or payment for
wayleave and other accommodation :

- (9.) Except as aforesaid, the railway company shall not transmit or permit the transmission of any telegraphic message through their wires :
- (10.) All matters of difference between the postmaster general and railway companies arising under this act shall be settled by arbitration, in conformity with the enactments of "The Railway Companies Arbitration Act, 1859," with respect to the settlement of disputes by arbitration; and the provisions of that act with respect to arbitration shall for these purposes be incorporated with this act : ^{23 & 23 Vict. c. 59.}
- (11.) Notwithstanding anything specified in this act or in any agreement by this act confirmed, the umpire to be appointed in any arbitration between the postmaster general and any railway company shall, in default of appointment by the arbitrators, be nominated by the chief justice of her majesty's court of Common Pleas at Westminster for the time being.

10. The sums to be received by the directors of Reuter's Telegram Company (Limited) by virtue of the agreement between the postmaster general and the company shall be applied in the first instance in the payment of the debts and liabilities of the company (if any) other than their current debts, then in payment of any sums which may be voted by a general meeting of the shareholders in recognition of the services conferred upon the company by any individuals attached thereto, or which may with the authority of a general meeting be deducted and retained for the purposes of the general business of the company, and the residue shall be distributed by the directors among the shareholders according to their several interests in the company. ^{Application of sums received by Reuter's Telegram Company by virtue of agreement with postmaster general.}

CANAL COMPANIES.

11. On such acquisition of any undertaking the existing agreements between the late Duke of Bridgewater's trustees, the late George Granville Francis Egerton late Earl of Ellesmere, and the United Kingdom Telegraph Company (Limited), shall determine, and the postmaster general shall have such right of way for his poles, wires, and telegraphic apparatus over the whole of the canal system, and the property of the said trustees, in perpetuity as is granted for a term or terms of years by the provisions of such agreements, and in consideration thereof ^{Postmaster general may acquire a right of way over the Bridgewater canal.}
31 & 32 VICT. c. 110. xii.

31 & 32 Vict.
CAP. 110.

he shall pay to the said trustees such sum by way of yearly rent as shall be determined by agreement, or failing agreement as shall be fixed by arbitration as in this act is provided; and the arbitrator in determining the amount to be paid to the said trustees during the period of such existing agreements shall have regard to the said agreements and to a compulsory sale of such right of way; and the said trustees shall, as in the said agreements or either of them mentioned, continue to have in perpetuity the exclusive use of such isolated and additional and other telegraphic wires and connexions as provided in the said agreements, or some or one of them; and the postmaster general shall also transmit to their respective destinations all messages of the said trustees and the Earl of Ellesmere respectively, and their respective agents and clerks, *bonâ fide* relating to the business of the said trust or undertaking, between any places in the united kingdom free of charge.

Postmaster
general may
acquire a
right of way
over the
Grand Junction
canal.

12. On such acquisition as aforesaid the existing agreements between the company of proprietors of the Grand Junction Canal and the United Kingdom Telegraph Company (Limited) shall determine, and the postmaster general shall have a perpetual right of way for his poles, wires, and telegraphic apparatus over the whole of the canal company's system of navigation as it now exists, or may hereafter be altered or converted, but so that such poles, wires, and apparatus shall not interfere in any way with the convenience and working of the canal or its alteration from time to time, or conversion in whole or in part into a railway, or obstruct the working of the traffic thereon, and in consideration thereof he shall pay to the canal company such sum by way of yearly rent as shall be determined by agreement, or failing agreement as shall be fixed by arbitration in the manner in this act provided with respect to arbitrations with railway companies (for which purpose the canal company shall be held to be a railway company); and the arbitrator in determining the amount to be paid to the canal company shall have regard to the agreements which subsist between the canal company and the said telegraph company and also to a compulsory sale being required of such right of way; and the postmaster general shall also transmit to their respective destinations all messages of the said canal company *bonâ fide* relating to the business of that company between any places in the united kingdom free of charge.

Agreements
confirmed.

13. Subject to the provisions of this act, the several agreements referred to in the schedule to this act are hereby confirmed.

31 & 32 Vict. c. 110. xiii.

14. It shall be lawful for her majesty's postmaster general, with the consent of the lords commissioners of her majesty's treasury, from time to time to lease any part or parts of the undertaking or property purchased or acquired by him under the powers of this act.

31 & 33 VICT.
CAP. 110.

Power to
postmaster
general to
lease pro-
perty.

15. The postmaster general, with the consent of the commissioners of her majesty's treasury, may from time to time make regulations for determining the hours during which the offices appointed by him to be places for the receipt and despatch of messages shall be open for the transaction of telegraphic business, and for fixing the sums to be from time to time paid for the transmission of messages, and for services rendered in connexion therewith, and for the general conduct of telegraphic business: Provided always,

Postmaster
general to
make regu-
lations for
conduct of
business,
and to fix
charges.

(1.) That the charges for the transmission of messages throughout the united kingdom shall uniformly and without regard to distance be at a rate not exceeding one shilling for the first twenty words of each message, or part of twenty words, and not exceeding three pence for each additional five words or part of five words:

(2.) That the names and addresses of the senders and receivers of messages shall not be counted as part of the words for which payment shall be required:

(3.) That the sums charged for the transmission of messages shall be held to cover the costs of delivery by special foot messenger within the limit of one mile of the terminal telegraph office, or within the limit of the town postal delivery of that office, when it is a head post office, and the town postal delivery extends for more than a mile from it:

(4.) That when the addressee does not reside within the above-described limits, and the sender desires to have his message delivered by special foot messenger, the charge to him for portage by such special messenger shall not exceed sixpence per double mile, or any part thereof, beyond such limits:

(5.) That when the addressee does not reside within the above described limits, and the sender does not desire to incur the cost of special delivery, his message shall be delivered free of extra charge by the ordinary postal delivery next following on the arrival of his message at the terminal telegraphic office.

31 & 32 VICT.
CAP. 110.

Power to
postmaster
general to
enter into
special
agreements
with pro-
prietors of
newspapers.

16. Notwithstanding anything in this act, it shall be lawful for the postmaster general, with the consent of the commissioners of her majesty's treasury, from time to time to make contracts, agreements, and arrangements with the proprietor or publisher of any public registered newspaper, or the proprietor or occupier of any news room, club, or exchange room, for the transmission and delivery, or the transmission or delivery of telegraphic communications at rates not exceeding one shilling for every hundred words transmitted between the hours of six p.m. and nine a.m., and at rates not exceeding one shilling for every seventy-five words transmitted between the hours of nine a.m. and six p.m. to a single address, with an additional charge of twopence for every hundred words, or twopence for every seventy-five words, as the case may be, of the same telegraphic communication so transmitted to every additional address: provided always, that the postmaster general may from time to time, with the like consent, let to any such proprietor, publisher, or occupier the special use of a wire (during such period of twelve hours per diem as may be agreed on) for the purposes of such newspaper, news room, club, or exchange room, at a rate not exceeding five hundred pounds per annum: provided also, that no such proprietor, publisher, or occupier shall have any undue priority or preference in respect of such rates over any other such proprietor, publisher, or occupier.

Messages
having
priority to
be specially
marked.

17. Every telegraph message which, by virtue of the provisions of "The Telegraph Act, 1863," or any other act, shall have priority in order of transmission over any other message intrusted to the postmaster general for transmission, shall have the word, "priority" specially stamped or marked thereon by the secretary of state, the board of trade, or other department of her majesty's government sending the same; and every message so stamped or marked shall be retained by the postmaster general for a period of not less than twelve calendar months from the date thereof.

Payments
to be made
by means of
stamps.

18. The payments to the postmaster general for the transmission of telegraphic messages from one place to another within the united kingdom shall (except for portage) be made in all cases by means of stamps, and the postmaster general shall cause a proper supply of stamps and stamped paper to be prepared for that purpose, and kept for sale to the public at such of the offices under his control as he may think fit to appoint for that purpose.

Power to
appoint

19. Besides appointing offices to be places for the transmission of messages by means of the electric tele-
31 & 32 VICT. c. 110. xv.

graph, the postmaster general may, if he think fit, appoint offices or pillar letter boxes to be places of deposit for messages, and the messages deposited therein shall, provided they be written on stamped paper of the proper value, or on paper having stamps of the proper value affixed thereto, be conveyed to the offices of transmission without extra charge, at such times as the ordinary collections of post letters are made from the aforesaid places of deposit, and shall forthwith be despatched by telegraph from the offices of transmission.

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CAP. 110.

offices for
depositing
messages.

20. Any person having official duties connected with the post office, or acting on behalf of the postmaster general, who shall, contrary to his duty, disclose or in any way make known or intercept the contents or any part of the contents of any telegraphic messages or any message entrusted to the postmaster general for the purposes of transmission, shall, in England and in Ireland, be guilty of a misdemeanor, and in Scotland of a crime and offence, and shall upon conviction be subject to imprisonment for a term not exceeding twelve calendar months; and the postmaster general shall make regulations to carry out the intentions of this section, and to prevent the improper use by any person in his employment or acting on his behalf of any knowledge he may acquire of the contents of any telegraphic message.

Punishment
for disclo-
sing or inter-
cepting
messages.

21. In every case where an offence shall be committed in respect of a telegraphic message sent by or intrusted to the postmaster general, it shall be lawful and sufficient, in the indictment or criminal letters to be preferred against the offender, to lay the property of such telegraphic message in her majesty's postmaster general, without specifying any further or other name, addition, or description whatsoever, and it shall not be necessary in the indictment or criminal letters to allege or to prove upon the trial or otherwise that the telegraphic message was of any value; and in any indictment or in any criminal letters to be preferred against any person employed under the post office for any offence committed under this act it shall be lawful and sufficient to state and allege that such offender was employed under the post office at the time of the committing of such offence, without stating further the nature or particulars of his employment.

Property in
telegraphic
messages
to be laid in
postmaster
general.

22. All land, property, and undertakings purchased or acquired by the postmaster general under this act shall be assessable and rateable in respect to local, municipal, and parochial rates, assessments, and charges at sums not exceeding the rateable value at which such land, property, and undertakings were properly assessed

Postmaster
general
to pay rates,
&c.

31 & 32 Vict.
CAP. 110.

Copies of
regulations
to be laid
before par-
liament.

or assessable at the time of such purchase or acquisition.

23. Copies of all contracts, agreements, and arrangements from time to time made under the authority of this act shall be laid before both houses of parliament within fourteen days of the commencement of the session next succeeding the making of every such contract, agreement, and arrangement; the copies of all regulations from time to time made under the authority of this act shall be laid before both houses of parliament within fourteen days from the date thereof if parliament be then sitting, and if not sitting then within fourteen days from the next re-assembling of parliament, and all regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this act.

Provision
as to pay-
ment of
costs to
railway and
telegraph
companies
if objects of
act not
carried out.
[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

24. *In case no act shall be passed during this or the next session of parliament, putting at the disposal of the postmaster general such monies as shall be requisite for carrying into effect the objects and purposes of this act, the provisions contained in this act or in the agreements hereby confirmed relating to the arrangements with railway and telegraph companies, and all proceedings thereunder, shall become void, and the postmaster general shall thereupon pay to the several companies mentioned in such clauses or agreements all reasonable costs and expenses (if any) properly incurred by them respectively in relation to any proceedings taken under this act.*

SCHEDULE to which the foregoing Act refers.

1. An agreement between her majesty's postmaster general and the Great Western railway company, dated the 9th day of July 1868.

2. An agreement between her majesty's postmaster general and the London and South-western railway company, dated the 10th day of July 1868.

3. An agreement between her majesty's postmaster general and the London, Chatham, and Dover railway company, dated the 9th day of July 1868.

4. An agreement between her majesty's postmaster general and the South-eastern railway company, dated the 14th day of July 1868.

5. An agreement between her majesty's postmaster general and the North-eastern railway company, dated the 8th day of July 1868.

6. An agreement between her majesty's postmaster general and the Bristol and Exeter railway company, dated the 9th day of July 1868.

31 & 32 VICT. c. 110. xvii.

7. An agreement between her majesty's postmaster general and the submarine telegraph company between Great Britain and the continent of Europe and the submarine telegraph company between France and England (Société and Carmichael and company), dated the 11th day of July 1868.

8. An agreement between her majesty's postmaster general and Reuter's telegram company (limited), dated the 14th day of July 1868.

9. Agreement between her majesty's postmaster general and the Atlantic telegraph company and Anglo-American telegraph company (limited), dated the 8th day of July 1868.

10. An agreement between her majesty's postmaster general and the North British railway company, dated the 16th day of July 1868.

11. An agreement between her majesty's postmaster general and the Caledonian railway company, dated the 16th day of July 1868.

12. Articles of agreement between her majesty's postmaster general and the universal private telegraph company (limited), dated the 14th day of July 1868.

13. Heads of agreement between her majesty's postmaster general and the London and provincial telegraph company (limited), dated the 16th day of July 1868.

REGULATION OF RAILWAYS, 1868.

31 & 32 Vict. Cap. 119. An Act to amend the Law relating to Railways. [31st July 1868.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

PRELIMINARY.

Short title. 1. This act may be cited as the Regulation of Railways Act, 1868.

**Interpre-
tation of
terms.**

2. In this act—

The term "railway" means the whole or any portion of a railway or tramway, whether worked by steam or otherwise:

The term "company" means a company incorporated, either before or after the passing of this act, for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose), and includes, except when otherwise expressed, any individual or individuals not incorporated who are owners or lessees of a railway in the United Kingdom, or parties to an agreement for working a railway in the United Kingdom:

The term "person" includes a body corporate.

I.—ACCOUNTS, AUDIT, &c.

**Uniform
accounts,
&c. to be
kept.**

3. Every incorporated company, seven days at least before each ordinary half-yearly meeting held after the thirty-first day of December one thousand eight hundred and sixty-eight, shall prepare and print, according to the forms contained in the first schedule to this act, a statement of accounts and balance sheet for the last preceding half year, and the other statements and certificates required by the same schedule, and an estimate of the proposed expenditure out of capital for the next ensuing half year, and such statement of accounts and balance sheet shall be the statement of accounts and

31 & 32 Vict. c. 119. i.

balance sheet which are submitted to the auditors of the company. Every company which makes default in complying with this section shall be liable to a penalty not exceeding five pounds for every day during which such default continues. The board of trade, with the consent of a company, may alter the said forms as regards such company for the purpose of adapting them to the circumstances of such company, or of better carrying into effect the objects of this section.

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CAP. 119.

4. Every statement of accounts, balance sheet, and estimate of expenditure, prepared as required by this act, shall be signed by the chairman or deputy chairman of the directors and by the accountant or other officer in charge of the accounts of the company, and shall be preserved at the company's principal office. A printed copy thereof shall be forwarded to the board of trade, and at all times after the date at which it is required to be printed be given, on application, to every person who holds any ordinary or preference share or stock in the company, or any mortgage, debenture, or debenture stock of the company; and every such person may at all reasonable times, without fee or charge, peruse the original in the possession of the company. Any company which acts in contravention of this section shall be liable for each offence to a penalty not exceeding fifty pounds.

Accounts,
&c. to be
signed, and
printed
copies dis-
tributed.

5. If any statement, balance sheet, estimate, or report which is required by this act is false in any particular to the knowledge of any person who signs the same, such person shall be liable, on conviction thereof on indictment, to fine and imprisonment, or on summary conviction thereof to a penalty not exceeding fifty pounds.

Penalty for
falsifying
accounts,
&c.

6. The board of trade may appoint one or more competent inspectors to examine into the affairs of an incorporated company and the condition of its undertaking, or any part thereof, and to report thereon, upon any one of the applications following; that is to say,

Examination
of affairs
by inspec-
tors.

1. Upon application made in pursuance of a resolution passed at a meeting of directors:

2. Upon application by the holders of not less than two fifths part of the aggregate amount of the ordinary shares or stock of the company for the time being issued:

3. Upon application by the holders of not less than one half of the aggregate amount of the mortgages, debentures, and debenture stock (if any) of the company for the time being issued:

4. Upon application by the holders of not less than

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Application
to be sup-
ported by
evidence.

Inspection
of com-
pany's
books and
property.

Result of
examina-
tion, how
dealt with.

Power of
company to
appoint
inspectors.

two fifths of the aggregate amount of the guaranteed or preference shares or stock of the company for the time being issued, provided that the preference capital issued amounts to not less than one third of the whole share capital of the company.

7. The application shall be made in writing, signed by the applicants, and shall be supported by such evidence as the board of trade may require, for the purpose of showing that the applicants have good reason for requiring such examination to be made; the board of trade may also, before appointing any inspector or inspectors, require the applicants to give security for payment of the costs of the inquiry.

8. It shall be the duty of the directors, officers, and agents of the company to produce, for the examination of the inspectors, all books and documents relating to the affairs of the company in their custody or power, and to afford to the inspectors all reasonable facilities for the inspection of the property and undertaking of the company. Any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly. Any person who, when so examined on oath, makes any false statement, knowing the same to be false, shall be guilty of perjury.

If any director, officer, or agent refuses to produce any book or document hereby directed to be produced, or to afford the facilities for inspection hereby required to be afforded, or if any officer or agent refuses to answer any question relating to the affairs of the company, he shall incur a penalty of five pounds for every day during which the refusal continues.

9. Upon the conclusion of the examination the inspectors shall report their opinion to the board of trade and to the company, and the company shall print the same, and deliver a copy thereof to the board of trade, and, on application, to any person who holds any ordinary or preference share or stock, or any mortgage, debenture, or debenture stock of the company. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the persons upon whose application the inspectors were appointed unless the board of trade shall direct the same or any portion thereof to be paid by the company, which they are hereby authorised to do.

10. Any company may, by resolution at any extraordinary meeting, appoint inspectors for the purpose of examining into the affairs of the company and the condition of the company's undertaking. The inspectors so

appointed shall have the same powers and perform the same duties as inspectors appointed by the board of trade, and shall make their report in such manner and to such persons as the company in general meeting directs; and the directors, officers, and agents of the company shall incur the same penalties, in case of any refusal to produce any book or document by this act required to be produced to such inspectors, or to afford the facilities for inspection by this act required to be afforded, or to answer any question, as they would have incurred if such inspectors had been appointed by the board of trade.

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CAP. 119.

11. Whenever, after the passing of this act, section one hundred and two of the Companies Clauses Consolidation Act, 1845, is incorporated in a certificate or special act relating to a railway company, it shall be construed as if the words, "where no qualification shall be prescribed by the special act every auditor shall have at least one share in the undertaking," were omitted therefrom; and so much of every certificate and special act relating to a railway company, and in force at the passing of this act, as incorporates that portion of the said section, and so much of any special act relating to a railway company, and so in force, as contains a like provision, is hereby repealed.

Auditor not necessarily a shareholder.
8 & 9 Vict.
c. 16.

12. With respect to the auditors of the company the following provision shall have effect:

Auditors of company, and appointment of auditor by board of trade.

(1.) The board of trade may, upon application made in pursuance of a resolution passed at a meeting of the directors or at a general meeting of the company, appoint an auditor in addition to the auditors of such company, and it shall not be necessary for any such auditor to be a shareholder in the company:

(2.) The company shall pay to such auditor appointed by the board of trade such reasonable remuneration as the board of trade may prescribe:

(3.) The auditor so appointed shall have the same duties and powers as the auditors of the company, and shall report to the company:

(4.) Where, in consequence of such appointment of an auditor or otherwise, there are three or more auditors, the company may declare a dividend if the majority of such auditors certify in manner required by section thirty of the Railway Companies Act, 1867, and the Railway Companies (Scotland) Act, 1867, respectively:

(5.) Where there is a difference of opinion among

30 & 31 Vict.
cc. 127, 128.

31 & 32 Vict. c. 119. iv.

31 & 32 VICT.
CAP. 119.

such auditors, the auditor who so differs shall issue to the shareholders, at the cost of the company, such statement respecting the grounds on which he differs from his colleagues, and respecting the financial condition and prospects of the company, as he thinks material for the information of the shareholders.

Issue of preferred and deferred ordinary stock.

13. Any company which, in the year immediately preceding has paid a dividend on their ordinary stock of not less than three pounds per centum per annum may, pursuant to the resolution of an extraordinary general meeting, divide their paid-up ordinary stock into two classes, to be and to be called the one preferred ordinary stock, and the other deferred ordinary stock, and issue the same subject and according to the following provisions, and with the following consequences; (that is to say,)

- (1.) Preferred and deferred ordinary stock shall be issued only in substitution for equal amounts of paid-up ordinary stock, and by way of division of portions of ordinary stock into two equal parts :
- (2.) Such division may be made at any time, on the request in writing of the holder of paid-up ordinary stock, but not otherwise ; and such request may apply to the whole of the ordinary stock of such holder or to any portion thereof divisible into twentieth parts :
- (3.) Preferred ordinary stock and deferred ordinary stock shall not be issued except in sums of ten pounds or multiples of ten pounds :
- (4.) The certificates for any ordinary stock divided into preferred and deferred ordinary stock shall before such division be delivered up to the company, and shall be cancelled by them, and certificates for preferred ordinary stock and deferred ordinary stock shall be issued gratis in exchange by the company :
- (5.) If in any case there is any part of the ordinary stock held by a stockholder comprised in one certificate which he does not desire to be divided, or which is incapable of division, under the provisions of this act, the company shall issue to him gratis a certificate for that amount as ordinary stock :
- (6.) As between preferred ordinary stock and deferred ordinary stock, preferred ordinary stock shall bear a fixed maximum dividend at the rate of six per centum per annum.
- (7.) In respect of dividend to the extent of the maximum aforesaid, preferred ordinary stock shall,

at the time of its creation, and at all times afterwards, have priority over deferred ordinary stock created or to be created, and shall rank *pari passu* with the undivided ordinary stock and the ordinary shares of the company created or to be created; and in respect of dividend, preferred ordinary stock shall at all times and to all intents rank after all preference and guaranteed stock and shares of the company created or to be created:

§1 & §2 VICT
CAP. 119.

- (8.) In each year after all holders of preferred ordinary stock for the time being issued have received in full the maximum dividend aforesaid, all holders of deferred ordinary stock for the time being issued shall, in respect of all dividend exceeding that maximum paid by the company in that year on ordinary stock and shares, rank *pari passu* with the holders of undivided ordinary stock and of ordinary shares of the company for the time being issued:
- (9.) If, nevertheless, in any year ending on the thirty-first day of December there are not profits available for payment to all the holders of preferred ordinary stock of the maximum dividend aforesaid, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company:
- (10.) Preferred ordinary stock and deferred ordinary stock from time to time shall confer such right of voting at meetings of the company, and shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents, as from time to time attach and are incident to undivided ordinary stock of the company:
- (11.) The terms and conditions on which any preferred ordinary stock or deferred ordinary stock is issued shall be stated on the certificate thereof:
- (12.) Preferred ordinary stock and deferred ordinary stock shall respectively be held on the same trusts, and subject to the same charges and liabilities, as those on and subject to which the ordinary stock in substitution for which the same are issued was held immediately before the substitution, and so as to give effect to any testamentary or other disposition of or affecting such ordinary stock.

81 & 82 Vict.
CAP. 119.

II.—OBLIGATIONS AND LIABILITY OF COMPANIES AS
CARRIERS.

Liability of
company
during sea
transit.

14. Where a company by through booking contracts to carry any animals, luggage, or goods from place to place partly by railway and partly by sea, or partly by canal and partly by sea, a condition exempting the company from liability for any loss or damage which may arise during the carriage of such animals, luggage, or goods by sea from the act of God, the king's enemies, fire, accidents from machinery, boilers, and steam, and all and every other dangers and accidents of the seas, rivers and navigation, of whatever nature and kind soever, shall, if published in a conspicuous manner in the office where such through booking is effected, and if printed in a legible manner on the receipt or freight note which the company gives for such animals, luggage, or goods, be valid as part of the contract between the consignor of such animals, luggage, or goods and the company in the same manner as if the company had signed and delivered to the consignor a bill of lading containing such condition. For the purposes of this section the word "company" includes the owners, lessees, or managers of any canal or other inland navigation.

Fares to be
posted in
stations.

15. On and after the first day of January one thousand eight hundred and sixty-nine every company shall cause to be exhibited in a conspicuous place in the booking office of each station on their line a list or lists painted, printed, or written in legible characters, containing the fares of passengers by the trains included in the time tables of the company from that station to every place for which passenger tickets are there issued.

Provision for
securing
equality of
treatment
where rail-
way com-
pany works
steam
vessels.

16. Where a company is authorized to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working, steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels, then and in every such case tolls shall be at all times charged to all persons equally and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof, or in favour of or against any person using the railway in consequence

of his having used, or being about to use, or his not having used or not being about to use, the steam vessels; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

31 & 32 Vict.
CAP. 119.

The provisions of the Railway and Canal Traffic Act, 1854, so far as the same are applicable, shall extend to the steam vessels, and to the traffic carried on thereby.

17 & 18 Vict.
c. 31.

17. Where any charge shall have been made by a company in respect of the conveyance of goods over their railway, on application in writing within one week after payment of the said charge made to the secretary of the company by the person by whom or on whose account the same has been paid, the company shall within fourteen days render an account to the person so applying for the same, distinguishing how much of the said charge is for the conveyance of the said goods on the railway, including therein tolls for the use of the railway, for the use of carriages, and for locomotive power, and how much of such charge is for loading and unloading, covering, collection, delivery, and for other expenses, but without particularizing the several items of which the last-mentioned portion of the charge may consist.

Company bound to furnish particulars of charges for goods.

18. Where two railways are worked by one company, then in the calculation of tolls and charges for any distances in respect of traffic (whether passengers, animals, goods, carriages or vehicles) conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

Charge when two railways worked by one company.

19. Where proceedings are taken against a company using a locomotive steam engine on a railway on account of the same not consuming its own smoke, then if it appears to the justices before whom the complaint is heard that the engine is constructed on the principle of consuming its own smoke, but that it failed to consume its own smoke, as far as practicable, at the time charged in the complaint through the default of the company, or of any servant in the employment of the company, such company shall be deemed guilty of an offence under the Railways Clauses Consolidation Act, 1845, section one hundred and fourteen.

Proceedings in case of non-consumption of smoke.

8 & 9 Vict.
c. 20.

20. All railway companies, except the metropolitan railway company, shall, from and after the first day of October next, in every passenger train where there are more carriages than one of each class, provide smoking compartments for each class of passengers, unless exempted by the board of trade.

Smoking compartments for all classes.

31 & 32 Vict. c. 119. viii.

31 & 32 Vict.
CAP. 119.

Railway
companies
to be liable
to penalties
in case they
shall provide
trains for
prize fights.

21. Any railway company that shall knowingly let for hire or otherwise provide any special train for the purpose of conveying parties to or to be present at any prize fight, or who shall stop any ordinary train to convenience or accommodate any parties attending a prize fight at any place not an ordinary station on their line, shall be liable to a penalty, to be recovered in a summary way before two justices of the county in which such prize fight shall be held or shall be attempted to be held, of such sum not exceeding five hundred pounds, and not less than two hundred pounds, as such justices shall determine, one half of such penalty to be paid to the party at whose suit the summons shall be issued, and the other half to be paid to the treasurer of the county in which such prize fight shall be held or shall be attempted to be held in aid of the county rate; and service of the summons under which the penalty is sought to be enforced on the secretary of the company at his office ten days before the day of hearing shall be sufficient to give the justices before whom the case shall come jurisdiction to hear and determine the case.

III.—Provisions for Safety of Passengers.

Communica-
tion between
passengers
and the
company's
servants.

22. After the first day of April, one thousand eight hundred and sixty-nine, every company shall provide, and maintain in good working order, in every train worked by it which carries passengers, and travels more than twenty miles without stopping, such efficient means of communication between the passengers and the servants of the company in charge of the train as the board of trade may approve. If any company makes default in complying with this section, it shall be liable to a penalty not exceeding ten pounds for each case of default. Any passenger who makes use of the said means of communication without reasonable and sufficient cause shall be liable for each offence to a penalty not exceeding five pounds.

Penalty for
trespasses
on railways.
[Amended
by 34 & 35
Vict. c. 78,
s. 14.]

23. If any person shall be or pass upon any railway, except for the purpose of crossing the same at any authorized crossing, after having received warning by the company which works such railway, or by any of their agents or servants, not to go or pass thereon, every person so offending shall forfeit and pay any sum not exceeding forty shillings for every such offence.

Trees
dangerous to
railways
may be
removed.

24. If any tree standing near to a railway shall be in danger of falling on the railway so as to obstruct the traffic, it shall be lawful for any two justices on the complaint of the company which works such railway to
31 & 32 Vict. c. 119. ix.

cause such tree to be removed or otherwise dealt with as such justices may order, and the justices making such order may award compensation to be paid by the company making such complaint to the owner of the tree so ordered to be removed or otherwise dealt with as such justices shall think proper, and the amount of such compensation shall be recoverable in like manner as compensation recoverable before justices under "the Railway Clauses Consolidation Act, 1845."

§1 & §2 VIOT
CAP. 119.

IV.—Compensation for accidents.

25. Where a person has been injured or killed by an accident on a railway, the board of trade, upon application in writing made jointly by the company from whom compensation is claimed and the person if he is injured, or his representatives if he is killed, may, if they think fit, appoint an arbitrator, who shall determine the compensation (if any) to be paid by the company.

Arbitration
of damages.

26. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any judge of the court in which proceedings to recover such compensation are taken, or any person who by the consent of the parties or otherwise has power to fix the amount of compensation, may order that the person injured be examined by some duly qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of such examination as he may think fit.

Examina-
tion by
medical
man.

V.—Light Railways.

27. The board of trade may by licence authorize a company applying for it to construct and work or to work as a light railway the whole or any part of a railway which the company has power to construct or work.

Order for
construction
and working
of railway
as a light
railway.

Before granting the licence the board of trade shall cause due notice of the application to be given, and shall consider all objections and representations received by them, and shall make such inquiry as they think necessary.

28. A light railway shall be constructed and worked subject to such conditions and regulations as the board of trade may from time to time impose or make: provided, that (1.) the regulations respecting the weight of locomotive engines, carriages, and vehicles to be used on such railway shall not authorize a greater weight than eight tons to be brought upon the rails by any one

Conditions
and regula-
tions for
light rail-
way.

§1 & §2 VIOT. C. 119. x.

31 & 32 VICT. CAP. 119. pair of wheels; (2.) the regulations respecting the speed of trains shall not authorize a rate of speed exceeding at any time twenty-five miles an hour.

If the company or any person fails to comply with or acts in contravention of such conditions and regulations, or directs any one so to fail or act, such company or person shall respectively be liable to a penalty for each offence not exceeding twenty pounds, and to a like penalty for every day during which the offence continues; and every such person on conviction on indictment for any offence relating to the weight of engines, carriages, or vehicles, or the speed of trains, shall be also liable to imprisonment, with or without hard labour, for any term not exceeding two years.

Publication
of regula-
tions.

29. The conditions and regulations of the board of trade relating to light railways shall be published and kept published by the company in manner directed with respect to bye-laws by section one hundred and ten of "The Railways Clauses Consolidation Act, 1845," and the company shall be liable to a penalty not exceeding five pounds for every day during which such conditions and regulations are not so published.

[Applied by
41 & 43 Vict.
c. 76, ss.
4, 5]
Arbitrator
appointed
by board of
trade.

VI.—Arbitrations by Board of Trade.

30. Whenever the board of trade are required to make any award or to decide any difference in any case in which a company is one of the parties, they may appoint an arbitrator to act for them, and his award or decision shall be deemed to be the award or decision of the board of trade.

If the arbitrator dies, or in the judgment of the board of trade becomes incapable or unfit, the board of trade may appoint another arbitrator.

Remunera-
tion of
arbitrator.

31. The board of trade may fix the remuneration of any arbitrator or umpire appointed by them in pursuance of this or any other act in any case where a company is one of the parties, and may, if they think fit, frame a scale of remuneration for arbitrators or umpires so appointed by them, and no arbitrator or umpire so appointed by them shall be entitled to any larger remuneration than the amount fixed by the board of trade.

Cost, &c., of
arbitrations.
22 & 23 Vict.
cap. 59.

32. The provisions of sections eighteen to twenty-nine, both inclusive, of the Railway Companies Arbitration Act, 1859, shall, so far as is consistent with the tenor thereof, apply to an arbitrator appointed by the board of trade, and to his arbitration and award, notwithstanding that one of the parties between whom he is appointed to arbitrate may not be a railway company; and in construing

31 & 32 VICT. C. 119. xi.

those sections for the purpose of this act the word "companies" shall be construed to mean the parties to the arbitration. 31 & 32 VICT. CAP. 119.

33. *All disputed questions as to any costs, charges, and expenses of and incident to any arbitration or award made under the provisions of "The Land Clauses Consolidation Act, 1845," or of any special act of parliament incorporating the same, whether the question in dispute arise as to compensation to be made for lands required to be purchased and actually taken by any railway company, or in respect of the injurious affecting of other lands not taken, or otherwise in relation thereto, shall, if either party so requires, be taxed and settled as between the parties by one of the masters of the court of queen's bench; and it shall be lawful for such master to receive and take in respect of each folio in length of every bill of costs so settled a fee of one shilling and no more, and such fee shall be taken in money and not in stamps, and may be retained by the said master for his own use and benefit.* Costs, charges, &c., to be taxed and settled by masters of the court of queen's bench. 8 & 9 Vict. cap. 18. [Sect. 33. repealed by 33 & 34 Vict. c. 18, s. 2.]

VII.—Miscellaneous.

34. Every incorporated company shall print correct copies of the shareholders address book of the company corrected up to the first day of December in every year, and affix an asterisk against the names of those qualified to act as directors. Printed copies of shareholders address book.

After the expiration of one fortnight from the aforesaid date the company shall, on application, supply such printed copies at a price not exceeding five shillings for each copy to every person who holds any ordinary or preference shares or stock in the company, or any mortgage debenture or debenture stock of the company.

Any company which acts in contravention of this section shall be liable for each offence to a penalty not exceeding twenty pounds.

35. *When a bill is introduced into either house of parliament conferring on an incorporated company additional powers, or when an incorporated company applies to the board of trade for a certificate conferring on it additional powers, the following provisions shall have effect; namely,* Meeting preliminary to application for act or certificate.

1st. *Before the bill is read a second time in the house of parliament into which it is first introduced, or before the application is made to the board of trade (as the case may be), the bill or draft certificate (as the case may be) shall be sub-* [Sect. 35 repealed by 33 & 34 Vict. c. 6, s. 1.]

31 & 32 VICT. c. 119. xii.

31 & 32 VICT.
CAP. 119.

mitted to a meeting of the proprietors of such company at a meeting held specially for that purpose:

- 2nd. Such meeting shall be called by advertisement inserted once in each of two consecutive weeks in a morning newspaper published in London, Edinburgh, or Dublin, as the case may be, and in a newspaper of the county or counties in which the principal office or offices of the company is or are situate, and also by a circular addressed to each proprietor at his registered or last known or usual address, and sent by post, or delivered at such address not less than ten days before the holding of such meeting, enclosing a blank form of proxy, with proper instructions for the use of the same; and the same form of proxy and the same instructions shall be sent to every such proprietor, and shall be addressed to each proprietor on the back of the form of proxy; but no such form of proxy shall be stamped before it is sent out, nor shall the funds of the company be used for the stamping of any proxies, nor shall any intimation be sent as to any person to whom the proxy may be given or addressed; and no other circular or form of proxy relating to such meeting shall be sent to any proprietor from the office of the company, or by any director or officer of the company so describing himself:
- 3rd. Such meeting shall be held on a day not earlier than seven days after the last insertion of such advertisement, and may be held on the same day as an ordinary general meeting of the company:
- 4th. At such meeting the bill or draft certificate shall be submitted to the proprietors, and shall not be proceeded with unless approved of by proprietors present in person or by proxy, holding at least three fourths of the paid up capital of the company represented at such meeting, such proprietors being qualified to vote at all ordinary meetings of the company in right of such capital; the votes of proprietors of any paid up shares or stock, other than debenture stock, not qualified to vote at ordinary meetings, whose interests may be affected by the proposed act or certificate, if tendered at the meeting, shall be recorded separately:
- 5th. There shall be laid before parliament or the board of trade (as the case may require) a statement

of the number of votes if a poll was taken, and the number of votes recorded separately :

31 & 32 VICT.
CAP. 119.

36. Whenever in pursuance of any notice under the act of the session of the first and second years of the reign of her present majesty, chapter ninety-eight, "to provide for the conveyance of mails by railways," or otherwise, the mails or post letter bags are conveyed and forwarded by a company on their railway by a special train, the postmaster general may by the same or any other notice in writing require that the whole of such special train shall be appropriated to the service of the post office exclusively of all other traffic except such as he may sanction, and the remuneration to be paid for such service shall be settled as prescribed by the sixth section of that act.

Special
Trains ex-
clusively for
post office.
1 & 2 Vict.
c. 98.

37. All requisitions, notices, and documents which relate to a company, if purporting to be signed by the postmaster general or some secretary or assistant secretary to the post office, or by some officer appointed for the purpose by the postmaster general, shall, until the contrary is proved, be deemed to have been so signed, and to have been given or made by the postmaster general, and the provisions of the act of the session of the first and second years of the reign of her present Majesty, chapter ninety-eight, "to provide for the conveyance of mails by railways," requiring any notice, requisition, or document to be under the hand of the postmaster general, are hereby repealed.

Service of
requisitions,
&c. by post-
master
general.

[Repealed
by 38 & 39
Vict. c. 68,
s. 1.]

38. The Railway Companies Powers Act, 1864, shall take effect and apply in the following cases in the same manner as if they were specified in section three of that act; (that is to say),

Extension of
scope of
Railway
Companies
Powers Act,
1864.

Where a company desire to make new provisions, or to alter any of the provisions of their special act, or of the "Companies Clauses Consolidation Act, 1845," so far as it is incorporated therewith, with respect to all or any of the matters following; namely,

27 & 28 Vict.
c. 120.

- (a.) The general meetings of the company, and the exercise of the right of voting by the shareholders :
- (b.) The appointment, number, and rotation of directors :
- (c.) The powers of directors :
- (d.) The proceedings and liabilities of directors :
- (e.) The appointment and duties of auditors.

39. All requisitions, orders, regulations, appointments, certificates, licences, notices, and documents which relate to a company, if purporting to be signed by some secre-

Service of
requisitions,
&c.

31 & 32 VICT. c. 119. xiv.

31 & 32 Vict.
CAP. 119.

tary or assistant secretary of or by some officer appointed for the purpose by the board of trade, shall, until the contrary is proved, be deemed to have been so signed, and to have been given or made by the board of trade. They may be served by the board of trade on any company in the manner in which notices may be served under the Companies Clauses Consolidation Act, 1845; and all notices, returns, and other documents required to be made, delivered, or sent by a company to the board of trade shall be left at the office of, or transmitted through the post addressed to, the board of trade.

8 & 9 Vict.
c. 16.

Recovery,
&c. of Penalties.
8 & 9 Vict.
cc. 20, 33.

40. Every penalty imposed by this act shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845, (as the case may require,) are for the time being recoverable and applicable.

Company
may apply to
common
law judge
at West-
minster to
hear cases of
compensa-
tion under
3 & 9 Vict.
c. 18.

41. Whenever, in the case of any lands purchased or taken otherwise than by agreement for the purposes of any public railway, any question of compensation in respect thereof, or any question of compensation in respect of lands injuriously affected by the execution of the works of any public railway, is under the provisions of "The Lands Clauses Consolidation Act, 1845," to be settled by the verdict of a jury empanelled and summoned as in that act mentioned, the company or the party entitled to the compensation may, at any time before the issuing by the company to the sheriff as by that act directed, apply to a judge of any one of the superior courts of common law at Westminster, who shall, if he think fit, make an order for trial of the question in one of the superior courts upon such terms and in such manner as to him shall seem fit; and the question between the parties shall be stated in an issue to be settled in case of difference by the judge, or as he shall direct, and such issue may be entered for trial and tried accordingly in the same manner as any issue joined in an ordinary action at such place as the judge shall direct; and the proceedings in respect of such issue shall be under and subject to the control and jurisdiction of the court as in ordinary actions therein, but so nevertheless that the jury shall, where the issue relates to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to lands held therewith, deliver their verdict separately in manner provided by the forty-ninth section of "The Lands Clauses Consolidation Act, 1845."

Company
may obtain
judge's
order in-
stead of

42. Whenever a company is called upon or liable under the provisions of "The Lands Clauses Consolidation Act, 1845," to issue their warrant to the sheriff in the case of any disputed compensation, and the company

shall obtain a judge's order as in the last preceding section mentioned, the obtaining of such an order and notice thereof to the opposite party shall be a satisfaction of the company's duty in respect of the issue of the warrant.

31 & 32 VICT.
CAP. 119.

issuing
warrant.

43. The verdict of the jury and judgment of the court upon any issue authorised by this act shall, as regards costs and every other matter incident to or consequent thereon, have the same operation and be entitled to the same effect as if that verdict and judgment had been the verdict of a jury and judgment of a sheriff upon an inquiry conducted upon a warrant to the sheriff issued by the company under "The Lands Clauses Consolidation Act, 1845."

Power of
verdict of
jury and
judgment of
the court.

44. In so far as any expression used in any of the three preceding sections of this act has any special meaning assigned to it by "The Lands Clauses Consolidation Act, 1845," each such expression shall in this act have the meaning so assigned to it.

Interpreta-
tion of cer-
tain ex-
pressions.

45. Wherever under the provisions of the Lands Clauses Consolidation Act, 1845, or of any act incorporating, altering, or amending the same, the costs of any proceedings for determining a question of disputed compensation are settled by one of the masters of the court of queen's bench in England or Ireland, it shall be lawful for such masters to receive and take in respect of each folio in length of every bill of costs so settled a fee of one shilling and no more; and such fee shall be taken in money and not in stamps, and may be retained by the said masters for their own use and benefit.

Fees to
masters for
determining
questions of
disputed
compensa-
tion.

46. Where notice in writing of a proposed application under "The Railways (Extension of Time) Act, 1868," for extension of the time limited for any of the purposes mentioned in that act, is received by the board of trade before the expiration of such time, or if the time has expired during the present session of parliament before the first day of September one thousand eight hundred and sixty-eight, and the application is duly made within the period prescribed by the said act, then a warrant of the board of trade extending the time, although issued after the expiration thereof, shall have effect from the date of such expiration as if it had been previously issued.

Extension
of time.
31 & 32 Vict.
c. 18.
[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

47. The enactments described in the second schedule to this act are hereby repealed.

As to repeal
of enact-
ments in
second
schedule.
[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

But this repeal shall not affect—

(1.) The validity or invalidity of anything duly done or suffered under any enactment repealed by this section :

(2.) Any right acquired or accrued or liability incurred, or any remedy in respect thereof.

31 & 32 VICT. c. 119. xvi.

SCHEDULES.

FIRST SCHEDULE.

FORMS OF ACCOUNT referred to in Sec. 3 of this Act.

_____ RAILWAY. HALF YEAR ENDING _____ 18 .

[No. 1.] STATEMENT OF CAPITAL AUTHORIZED, AND CREATED
BY THE COMPANY.

ACTS OF PARLIAMENT, or Certificates of the Board of Trade.	CAPITAL AUTHORIZED.			CAPITAL CREATED OR SANCTIONED.			BALANCE.		
	Stock and Shares.	Loans.	Total.	Stock and Shares.	Loans.	Total.	Stock and Shares.	Loans.	Total.
1. [Except where Capital Powers are comprised in a Consolidation Act, each Act or Certificate authorising Capital to be stated here separately in order of date.]	£	£	£	£	£	£	£	£	£
2.									
3.									
4.									
5.									
6.									
TOTAL									

[No 2.] STATEMENT OF STOCK AND SHARE CAPITAL CREATED,
SHOWING THE PROPORTION RECEIVED.

DESCRIPTION.	Amount created.	Amount received.	Calls in Arrear.	Amount uncalled.	Amount unissued.
[State each Class of Stock or Shares in order of Date of Creation, showing the Premium or Discount, if any, at which it was issued, the Preferential or fixed Dividends, if any, to which it is entitled, and any other Conditions attached to it.]	£	£	£	£	£
TOTAL					

CAPITAL RAISED BY LOANS AND DEBENTURE STOCK.

[No. 3.]

	RAISED BY LOANS.								RAISED BY ISSUE OF DEBENTURE STOCK.			Total raised by Loans and by Debenture Stocks.
	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	Total Loans	At per Cent.	At per Cent.	Total Debenture Stocks.	
Existing at	£	£	£	£	£	£	£	£	£	£	£	£
Ditto at												
Increase												
Decrease												
Total amount authorized to be raised by Loans and by Debenture Stocks in respect of Capital created, as per Statement No. 1.												
Total amount raised by Loans and by Debenture Stock as above												
Balance being available Borrowing Powers at 186												

[No. 6.] RETURN OF WORKING STOCK.

	LOCOMOTIVE.		COACHING.					MERCHANDISE AND MINERAL.				
	Engines.	Tenders.	First Class.	Second Class.	Third Class.			Goods Waggon.	Goods Waggon covered.	Coke Trucks.	Cattle Trucks.	Timber Trucks.
Stock on the 18												
Ditto on the 18												
Increase during the Half Year ...												
Decrease ditto ditto												

[No. 7.] ESTIMATE OF FURTHER EXPENDITURE ON CAPITAL ACCOUNT.

	FURTHER EXPENDITURE.		
	During the Half Year ending .	In subsequent Half Years.	Total.
Lines open for Traffic ... (Particulars, showing principal items.)			
Lines in course of Construction ... (Details of each Line.)			
Working Stock ... (Particulars.)			
Subscription to other Railways ... (Specifying Lines.)			
Docks, Steamboats, and other special Items (Particulars.)			
Works not yet commenced and in abeyance (in detail) ...			
Other Items (in detail) ...			
Total estimated further Expenditure of Capital ...			

[No. 8.] CAPITAL POWERS and other ASSETS available to meet further EXPENDITURE, as per No. 7.

Share and Loan Capital authorized or created but not yet received	...	...	...	...	...
Any other Assets (in detail)	...	...	...	...	...
Total	...	...	...	...	...

[No. 9.] Dr. REVENUE ACCOUNT. Cr.

Half Year ended	EXPENDITURE.	£ s. d.	Half Year ended	RECEIPTS.	£ s. d.	£ s. d.
	To Maintenance of Way, } see Abstract A. Works, and Stations } " Locomotive Power ... } do. B. " Carriage and Waggon ... } do. C. " Repairs ... } do. D. " Traffic Expenses ... } do. E. " General Charges ... } " Law Charges ... } " Parliamentary Expenses ... } " Compensation (Accidents and Losses) ... } " Rates and Taxes ... } " Government Duty ... } " Special and Miscellaneous Expenses (if any) ... } " Balance carried to Net Revenue Account			By Passengers... " Parcels, Horses, Carriages, &c. " Mails ... " Merchandise ... " Live Stock... " Minerals ... " Special and Miscellaneous Receipts— Such as Navigations, Steam-boats, Bells, Trunk/er Fees, &c. Details.		

[No. 10.] Dr.	NET REVENUE ACCOUNT.	Cr.
Half Year ended	£ s. d.	£ s. d.
To Interest on Mortgage and Debenture Loans " Interest on Debenture Stock " Interest on Calls in Advance " Interest on Temporary Loans " Interest on Lloyd's Bonds " Interest on Banking Balances " General Interest Account (if in Debit) " Rents of Leased Lines, Guarantees, &c. Details " Special and Miscellaneous Payments (if any)		By Balance brought from last Half Year's Account " Ditto Revenue Account, No. 9. " Dividends on Shares in other Companies " Bankers' and General Interest Account (if in Credit) " Special and Miscellaneous Receipts (if any) " (Detail to be given.)
Balance, being Payment available for Dividend		£
[See No. 12.]		

[No. 11.]	PROPOSED APPROPRIATION OF BALANCE AVAILABLE FOR DIVIDEND.
Half Year ended	Balance available for Dividends, as per Account No. 10. Preference Stock } to be stated in order of Creation, with Rate of Dividend { Ditto } £ Ditto } Ordinary Stock (being at the Rate of per cent) Balance to next Half Year
	£

[No. 12.]

ABSTRACTS.

A. MAINTENANCE OF WAY, WORKS, &c.							
Half Year ended .						£ s. d.	£ s. d.
	Salaries, Office Expenses, and General Superintendence						
	Maintenance and Renewal of Permanent Way						
	Wages ... ..	...	...	...	...	...
	Materials ... ..	...	...	...	...	...
	Repairs of Roads, Bridges, Signals, and Works						
	Repairs of Stations and Buildings						
	Special Expenditure (if any)						
	MILES MAINTAINED						
	Double ... ..	...	...	...	...	...
	Single ... ..	...	...	...	...	...
	Total						
	Total ...						

B.

LOCOMOTIVE POWER.

Half Year ended .						£ s. d.	£ s. d.
	Salaries, Office Expenses, and General Superintendence						
	RUNNING EXPENSES:—						
	Wages connected with the working of Locomotive						
	Engines... ..	...	...	...	...	...
	Coal and Coke ... ..	...	...	...	...	...
	Water ... ..	...	...	...	...	...
	Oil, Tallow, and Other Stores ... ..	...	...	...	...	...
	REPAIRS AND RENEWALS:—						
	Wages ... ..	...	...	...	...	...
	Materials ... ..	...	...	...	...	...
	Special Expenditure						
	Total						

C. REPAIRS AND RENEWALS OF CARRIAGES AND WAGGONS.

Half Year ended		£	s.	d.	£	s.	d.
	CARRIAGES:—						
	Salaries, Office Expenses, and General Superintendence						
	Wages						
	Materials						
	WAGGONS:—						
	Salaries, Office Expenses, and General Superintendence						
	Wages						
	Materials						
	TOTAL						

D. TRAFFIC EXPENSES.

Half Year ended		£	s.	d.
	Salaries and Wages, &c.			
	Fuel, Lighting, Water, and General Stores			
	Clothing			
	Printing, Stationery, and Tickets			
	Horses, Harness, Vans, Provender, &c.			
	Wagon Covers, Ropes, &c.			
	Joint Station Expenses			
	Miscellaneous Expenses			
	Special Expenditure (if any)			

E. GENERAL CHARGES.

Half Year ended		£	s.	d.
	Directors			
	Auditors and Public Accountants (if any)			
	Salaries of Secretary, General Manager, Accountant, and Clerks			
	Office Expenses ditto ditto ditto			
	Advertising			
	Fire Insurance			
	Electric Telegraph Expenses			
	Railway Clearing House Expenses			
	Special Expenditure (if any)			

[No. 13.] *Dr.* GENERAL BALANCE SHEET.*Cr.*

	<i>£ s. d.</i>		<i>£ s. d.</i>
To Capital Account, Balance at Credit thereof, as per account No. 4		By Cash at Bankers—Current Account	
" Net Revenue Account, Balance at Credit thereof, as per Account No. 10... ..		" Cash on Deposit at Interest and Government Securities	
" Unpaid Dividends and Interest		" Cash invested in shares of other Railway Companies not charged as Capital Expenditure	
" Guaranteed Dividends and Interest payable or accruing and provided for ...		" General Stores—Stock of Materials on hand	
" Temporary Loans		" Traffic Accounts due to the Company	
" Lloyd's Bonds and other Obligations not included in Loan Capital Statement, No. 3		" Amounts due by other Companies... ..	
" Balance due to Bankers ...		" Do. do. Clearing House	
" Debts due to other Companies... ..		" Do. do. Post Office ...	
" Amount due to Clearing House... ..		" Sundry Outstanding Accounts... ..	
" Sundry Outstanding Accounts... ..		" Suspense Accounts (if any) to be enumerated	
" Fire Insurance Fund on Stations, Works, and Buildings		" Special Items	
" Insurance Fund on Steamboats			
" Special Items			
<i>£</i>		<i>£</i>	

[No. 14.]

MILEAGE STATEMENT.

Half Year ended.		Miles authorized.	Miles constructed.	Miles constructing or to be constructed.	Miles worked by Engines.
	Lines owned by Company				
	Do. partly owned				
	Do. leased or rented				
	TOTAL				
	Do. worked... ..				
	Foreign Lines worked over				
	TOTAL				

[No 15.]

STATEMENT OF TRAIN MILEAGE.

Half Year ended	
	Passenger Trains
	Goods and Mineral Trains
	TOTAL... ..

(Signed) _____ Chairman or Deputy Chairman of Company.

_____ Secretary or Accountant of Company.

CERTIFICATE RESPECTING THE PERMANENT WAY, &c.

I hereby certify that the whole of the Company's Permanent Way, Stations, Buildings, Canals, and other Works have during the past half year been maintained in good working condition and repair.

Engineer.

Date _____ 18

CERTIFICATE RESPECTING THE ROLLING STOCK.

I hereby certify that the whole of the Company's Plant, Engines, Tenders, Carriages, Waggon, Machinery, and Tools, also the Marine Engines of the Steam Vessels, have during the past half year been maintained in good working order and repair.

*Chief Engineer, or
Locomotive Superintendent.*

Date _____ 18 .

AUDITOR'S CERTIFICATE.

As prescribed by Act 30 and 31 Victoria, Cap. 37, to follow.

SECOND SCHEDULE.

[Repealed
by 38 & 39
Vict. c. 66,
s. 1.]

Date and Chapter of Act.	Title of Act.
3 & 4 Vict. c. 97. (in part.)	"An Act for regulating Railways," in part; namely,—Section Twenty.
5 & 6 Vict. c. 55. (in part.)	"An Act for the better regulation of Railways, and for the Conveyance of Troops," in part; namely,—Section Nineteen.
7 & 8 Vict. c. 85. (in part.)	"An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways," in part; namely,—Section Twenty-three.

POOR LAW AMENDMENT, 1868.

81 & 32 Vict. Cap. 122. An Act to make further Amendments in the Laws for the Relief of the Poor in England and Wales (so far as it affects Railway Companies.) [31st July, 1868.]

Demand of
rate from a
corporation
or a com-
pany.

40. WHEN a poor rate is assessed upon any corporation aggregate, joint stock or other company, or any conservators or other public trustees, a demand for payment, either made by letter sent through the post addressed to the clerk or secretary or other principal officer of the corporation, company, conservators, or trustees, at the office of such corporation, company, conservators, or trustees, or made personally upon such clerk, secretary, or officer at such office, shall be deemed a sufficient demand, and a summons for the nonpayment of such rate may be served in like manner.

INLAND REVENUE, 1868

31 & 32 Vict. Cap. 124. An Act to amend the Laws relating to the Inland Revenue (so far as it affects Railway Companies.) [31st July, 1868.]

12. In lieu of the duties now payable under the provisions of any act or acts of parliament upon transfer of debenture stock of any company, there shall be charged and paid upon every such transfer a stamp duty of two shillings and sixpence for every full sum of one hundred pounds, and also for any fractional part of one hundred pounds of the nominal amount of the stock transferred.

As to stamp duty on transfers of debenture stock.

RAILWAY COMPANIES MEETINGS, 1869.

32 & 33 Vict. Cap. 6. An Act to repeal so much of The Regulation of Railways Act, 1868, as relates to the approval by Meetings of Incorporated Railway Companies of bills and certificates for conferring further powers on those companies. [19th April, 1869.]

[Repealed
by 46 & 47
Vict. c. 39,
s. 1.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Sect. 35 of
31 & 32 Vict.
c. 119,
repealed,
so far as
relates to
provisions
herein
named.

1. Section thirty five of "The Regulation of Railways Act, 1868," (which relates to meetings of incorporated railway companies and the approval by such meetings of bills and certificates for conferring additional powers on those companies) is hereby repealed so far as relates to any bill introduced into either house of parliament, or application for a certificate made after the first of February, one thousand eight hundred and sixty-nine.

Short title.

2. This act may be cited as "The Railway Companies Meetings Act, 1869."

LANDS CLAUSES CONSOLIDATION ACT AMENDMENT, 1869.

32 & 33 Vict. Cap. 18. An Act to amend the
Lands Clauses Consolidation Act.

[24th June, 1869.]

WHEREAS it is expedient that the provisions contained in "The Lands Clauses Consolidation Act, 1845," should be amended :

Be it therefore enacted and declared by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. Where in England, under "The Lands Clauses Consolidation Act, 1845," or any act incorporating the same, any question of disputed compensation is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be taxed and settled as between the parties by any one of the taxing masters of the superior courts of law ; and such fees may be taken in respect of the taxation as may be fixed in pursuance of the enactments relating to the fees to be demanded and taken in the offices of such masters, and all those enactments, including the enactments relating to the taking of fees by means of stamps, shall extend to the fees in respect of the said taxation.

2. *Section thirty-three of the Regulation of Railways Act, 1868, is hereby repealed, and any proceedings commenced in pursuance of that section may be continued under this act as if they had been commenced under it.*

3. Where any lands by the special act authorized to be taken are situate within the city and liberty of Westminster, then, with respect to those lands, in every case in which any question of disputed compensation is required by the Lands Clauses Consolidation Act, 1845, or any act amending the same, to be determined by the verdict of a jury, the high bailiff of the city and liberty of Westminster, or his deputy, shall be deemed to be substituted for the sheriff throughout such of the enactments of the Lands Clauses Consolidation Act, 1845,

32 & 33 VICT. c. 18. i.

Costs of arbitrations, where either party so requires, to be settled by a master of superior courts.

Repeal of 31 & 32 Vict. c. 119, s. 33. [Repealed by 46 & 47 Vict. c. 39, s. 1.]

Provision respecting lands in Westminster.

32 & 33 VICT.
CAP. 18.

Short title.
Construction of Act.

and any act amending the same as relate to the reference to a jury.

4. This act may be cited as "The Lands Clauses Consolidation Act, 1869," and shall be construed as one with the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, and these acts and this act may be cited together as the Lands Clauses Consolidation Acts, 1845, 1860, and 1869.

GREENWICH HOSPITAL, 1869.

82 & 83 Vict. Cap. 44. An Act to make better provision respecting Greenwich Hospital, and the application of the revenues thereof (so far as it affects the Hexham and Allendale Railway).
[2nd August, 1869.]

14. From and after the thirtieth day of September, one thousand eight hundred and sixty-nine, the Hexham and Allendale Railway Act, 1866, shall be read and have effect as if the solicitor of the admiralty had been mentioned throughout the enactments of that act instead of the controller of the Greenwich hospital estate; and the register of shareholders of the Hexham and Allendale railway company shall be altered (as far as is necessary) accordingly.

Provision as to Hexham, &c., Railway, 29 & 30 Vict. c. 78 (local).

COMPANIES CLAUSES ACT AMENDMENT, 1869.

**32 & 33 Vict., Cap. 48. An Act to amend The
Companies Clauses Act, 1863.**

[2d August 1869.]

WHEREAS "The Companies Clauses Act, 1863," has been amended in certain respects as regards railway companies, and it is expedient that such amendments should extend to other companies :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

**Amendment
of Part III.
of 26 & 27
Vict. c. 118,
as to rate of
interest on
debenture
stock.**

1. Part III. of "The Companies Clauses Act, 1863," shall be read and have effect as if the following words, that is to say, "not exceeding the rate prescribed in the special act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum," had not been inserted in section 22 of that act, and any special act of a company passed before the passing of this act, prescribing any rate, shall be read and have effect as if no rate had been prescribed therein.

**Restriction
on rate of
interest on
debenture
stock already
authorized.**

2. Provided, that any debenture stock, the creation whereof has been authorized by a company, but which has not been issued before the passing of this act, shall not be issued on any terms other than those whereon it might have been issued if this act had not been passed, unless and until the issue thereof, on terms other than as aforesaid, is after the passing of this act authorized by the company in manner provided in section 22 of "The Companies Clauses Act, 1863."

**Power to
issue debenture
stock,
subject to
Part III. of
26 & 27 Vict.
c. 118.**

3. Any company having power to raise money on mortgage or bond by virtue of any act of parliament, but not having power to create and issue debenture stock, may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863" (relating to debenture stock), and Part III. of the said act, as amended by this act, shall be deemed to be incorporated with the special act of every such company.

**Advances to
meet debentures
falling
due.**

4. Money borrowed by a company for the purpose of paying off and duly applied in paying off bonds or mort-

32 & 33 VICT. C. 48. i.

gages of the company given or made under the statutory powers of the company shall, so far as the same is so applied, be deemed money borrowed within and not in excess of such statutory powers. 32 & 33 VICT. C. 48.

5. Section 21 of "The Companies Clauses Act, 1863," shall, with respect to any company to which it is applicable under the provisions of this or any other act, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof," had not been inserted in that section. Power to issue shares or stock at discount

6. Any shares forming part of the capital (whether original or additional) authorized to be raised by any special act of a company passed before the present session which have not been disposed of may be disposed of in manner provided by Part II. of "The Companies Clauses Act, 1863," as amended by this act, and that part, as so amended, shall be deemed incorporated with such special act accordingly. Power to issue residue of original or other capital at discount.

7. Provided, that any shares, the creation whereof has been authorized by a company, but which have not been issued before the passing of this act, shall not be issued on any terms other than those whereon the same might have been issued if this act had not been passed unless and until the issue thereof on terms other than as aforesaid is after the passing of this act authorized by the company in manner provided by Part II. of "The Companies Clauses Act, 1863." Restriction on issuing at discount shares or stock already authorized.

8. Provided always, that this act shall not be construed to alter or extend the provisions of any act relating to share capital in respect of which the amount of profits to be divided is limited to a fixed rate per centum upon the paid-up capital of the company. Act not to affect provisions as to capital upon which the dividend is limited.

9. This act may be cited as "The Companies Clauses Act, 1869" Short title.

MUNICIPAL FRANCHISE, 1869.

32 & 33 Vict., Cap. 55. An Act to shorten the Term of Residence required as a Qualification for the Municipal Franchise, and to make provision for other purposes (so far as it affects Railway Companies). [2d August, 1869.]

Proprietors of shares in railway companies, &c., not to be deemed contractors, &c., and not to be disqualified from election to municipal offices by reason of such holding.

5. FROM and after the passing of this act no person shall be deemed to have had or to have an interest in a contract or employment with, by, or on behalf of the council of any borough, by reason only of his having had or having a share or interest in any railway company, or in any company incorporated by act of parliament or by royal charter, or under "The Companies Act, 1862," and no councillor, alderman, or mayor, in any municipal corporation shall be deemed to have been, or to be disqualified to be elected or to be such councillor, alderman, or mayor by reason only of his having had or having any share or interest in any railway company or in any company incorporated by act of parliament or royal charter, or under "The Companies Act, 1862," but all elections of councillors, aldermen, or mayors, as aforesaid, shall be deemed and taken to have been and to be valid notwithstanding any such share or interest as aforesaid

CONTAGIOUS DISEASES (ANIMALS), 1869.

32 & 33 Vict. Cap. 70. An Act to consolidate, amend, and make perpetual, the Acts for preventing the introduction or spreading of Contagious or Infectious Diseases among Cattle and other Animals in Great Britain (so far as it affects Railway Companies).

[9th August, 1869.]

6. In this act (*inter alia*)—

the term "railway company" includes a company or person working a railway under lease or otherwise.

Interpretation.

30. Where a local authority, with the approval of the privy council have before or after the passing of this act provided, erected, and filled up within a part of a port defined by the privy council as a place where foreign animals may be landed, any wharf, lair, shed, market, house, or place for the landing, reception, sale, or slaughter of foreign animals, it shall not be lawful for the privy council (as long as importation of foreign animals at that port is allowed, but under restriction), to revoke the definition of the part or parts of that port at which foreign animals may be landed, or to alter it so as to exclude therefrom any part of the site of such wharf, lair, shed, market house, or place, except with the consent of the local authority; and if any railway company have provided, erected, or fitted up any such wharves, lairs, sheds, markets, houses, or places, the same may, with the approval of the privy council, be used for the purposes of this part of this act.

Continuance of defined part where market, &c. provided. [Repealed by 41 & 42 Vict. c. 74.]

Railway company.

57. If any person exposes in a market or fair, or other public place, where horses or animals are commonly exposed for sale, or exposes for sale in any sale-yard, whether public or private, or places in a lair or other place adjacent to or connected with a market or fair, or where horses or animals are commonly placed before exposure for sale, or sends or causes to be carried on a railway, or on a canal, river, or other inland navigation, or on a coasting vessel, or carries, leads, or drives, or causes to be carried, led, or driven on a highway or thoroughfare, any horse or animal affected with a con-

Exposure for sale, transport by railway, &c., of diseased animals. [Repealed by 41 & 42 Vict. c. 74.]

32 & 33 VICT. c. 70. i.

32 & 33 VICT.
CAP. 70.

tagious or infectious disease, he shall be deemed guilty of an offence against this act, unless he shows to the satisfaction of the justices before whom he is charged, that he did not know of the same being so affected, and that he could not with reasonable diligence have obtained such knowledge.

Steamboat
and railway
companies,
&c., to
disinfect
carriages,
boats, &c.
[Repealed
by 41 & 42
Vict. c. 74.]

62. Every steamboat, railway, and other company, and every person carrying animals for hire to or in Great Britain, shall thoroughly cleanse and disinfect, in such manner as the privy council from time to time by order direct, all steamers, vessels, boats, pens, carriages, trucks, horse-boxes, and vehicles used by such company or person for the carrying of animals.

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this act.

Water and
food to be
provided at
railways to
satisfaction
of privy
council.
[Repealed
by 41 & 42
Vict. c. 74.]

64. Every railway company shall make a provision to the satisfaction of the privy council, of water and food, or either of them, at such stations as the privy council, from time to time, by general or specific description, direct, for animals carried or about to be or having been carried on the railway of the company; and such water and food, or either of them, shall be supplied to any such animal by the company carrying it, on the request in writing of the consignor thereof, or on the request of any person in charge thereof, and the company so supplying water and food, or either of them, may make in respect thereof such reasonable charges, if any, as the privy council by order approve, in addition to such charges as they are for the time being authorised to make in respect of the carriage of animals; and the amount of such additional charges accrued due in respect of any animal shall be debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time consigned by the same person to be carried by the company.

If any company on any occasion fails to comply with the requirements of this section, they shall on every such occasion be deemed guilty of an offence against this act. If in the case of any animal such request as aforesaid is not made, so that the animal remains without a supply of water for thirty consecutive hours, or other period not being less than twelve hours, as the privy council from time to time by order prescribe, the consignor and the person in charge of the animal shall each be deemed guilty

of an offence against this act; and it shall lie on the person accused to prove the time within which the animal has had a supply of water. 32 & 33 VICT. C. 70.

107. In proceedings before justices under this act, any railway company or other body corporate may appear by any member of their board of directors or council, or by any officer authorised in writing under the hand of any director or member of the council of the company or body. Appearance of companies, &c. [Repealed by 41 & 43 Vict. c. 74.]

RAILWAYS ABANDONMENT, 1869.

32 & 33 Vict. Cap. 114. An Act to amend the Law relating to the Abandonment of Railways and the Dissolution of Railway Companies.

[11th August, 1869.]

WHEREAS by the provisions of The Abandonment of Railways Act, 1850, as revived and amended by The Railway Companies (Scotland) Act, 1867, and The Railway Companies Act, 1867, a railway company may if their whole railway is authorized to be abandoned be wound up under The Companies Act, 1862; and doubts have arisen whether such company can be so wound up on the petition of a creditor or of any person except a shareholder, and it is expedient to remove such doubts and otherwise to amend the said acts:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same as follows:

Short title.

1. This act may be cited as The Abandonment of Railways Act, 1869.

Interpretation.

2. In this act "the court" means the High Court of Chancery in England, the Court of Chancery in Ireland, or the Court of Session in Scotland, according as the railway was authorized to be made in England, Ireland, or Scotland respectively.

Construction of act.
13 & 14 Vict.
c. 85.
30 & 31 Vict.
c. 139, 137.

3. This act shall be construed as one, so far as it extends to Scotland, with "The Abandonment of Railways Act, 1850," as amended by "The Railway Companies (Scotland) Act, 1867," and so far as it extends to England or Ireland with "The Abandonment of Railways Act, 1850," as amended by "The Railway Companies Act, 1867," and those acts are in this act referred to as the principal acts.

Petition for winding up of railway company may be presented under 25 & 26 Vict. c. 89, and 30 & 31 Vict. c. 131.

4. Where a warrant has been granted under the principal acts for the abandonment of the whole railway of any railway company a petition for winding up the affairs of such company may be presented under The Companies Acts, 1862 and 1867, by the company, or by any person who under the last-mentioned acts is authorized to present a petition for winding up a company, or by any person upon whose application the board of
32 & 33 VICT. c. 114. i.

trade may proceed in pursuance of section thirty-two of The Railway Companies (Scotland) Act, 1867, and The Railway Companies Act, 1867, as the case may be, and for that purpose the railway company whose railway is so authorized to be abandoned shall be deemed to be an unregistered company which may be wound up under The Companies Acts, 1862 and 1867, and the provisions of the principal acts which remain in force relating to winding up shall be construed as if The Companies Acts, 1862 and 1867, and the winding-up provided by this section, were therein referred to.

32 & 33 VICT.
CAP. 114.

5. If the warrant for the abandonment was made on condition that the money deposited as security for the completion of the railway, or the stocks, funds, or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway, or for payment of money in default thereof, should be applied as part of the assets of the company, the court may, if it think fit, direct that such money, stocks, funds, and securities shall not be applicable for the payment of any debt, or part of a debt which, regard being had to what is fair and reasonable as between all the parties interested under all the circumstances of the case, appears to the court to have been incurred on account of the promotion of the company.

Application
of deposit,
&c.

Any person who provided such money or any part thereof, or who entered into such bond, may, subject to any directions or rules of the court, attend all proceedings under this section and other proceedings in the winding-up, and apply to the court to act under this section.

6. Where the warrant for abandonment is made on condition that the money deposited as security for the completion of the railway, or the stocks, funds, or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway or for payment of money in default thereof, shall be applied as part of the assets of the company, the following provisions shall have effect:

Transfer of
deposit and
assignment
of bond.

- (1.) The court in which the company is being wound up may order such money, stocks, funds, or securities, or so much thereof as is required to be applied as assets of the company, to be paid, transferred, or delivered out to the official liquidator, and unless the court is satisfied that the same or any part thereof are not required to be applied as assets, shall not order the same or any part thereof to be paid, transferred, or delivered out to any other person:

- (2.) The commissioners of her majesty's treasury, upon 32 & 33 VICT. c. 114. ii.

32 & 33 VICT.
CAP. 114.

the application of the official liquidator, made with the sanction of the court, may, if they think fit, assign the bond to the official liquidator, and upon such assignment the bond shall be deemed to have been entered into with the official liquidator in his official name, and with his successors in that office, and may, subject to the sanction of the court, be enforced accordingly:

(8.) Any bond so assigned may, after a sufficient sum has been paid thereunder as assets of the company, be cancelled by the court.

Saving for
rights to
residue of
deposit.

7. Nothing in the principal acts or in this act shall affect any right to that part of the money deposited as security for the completion of the railway, or of the stocks, funds, or securities on which the same is invested, or of the money secured by any bond conditioned for the completion of the railway, which is not applied in payment of the debts and liabilities of the company, or required for that purpose.

Application
for abandon-
ment by
judgment
creditor.

8. Where a company, no part of the railway of which is open for traffic, has been required by any judgment or order of any court to pay a sum of money to any person or body corporate, and has made default in such payment, the board of trade may proceed under the principal acts, upon the application of such person or body, in the same manner as if such person or body were mentioned in that behalf in the said section.

Notices
under
sect. 17 of
13 & 14 Vict.
c. 83.

9. The notice given in pursuance of section seventeen of The Abandonment of Railways Act, 1850, may, where there is no secretary of the company, or no office of the company, require claims or demands to be sent to such person or to such place as the board of trade direct.

Repeal of
winding-up
sections of
13 & 14 Vict.
c. 83.
[Repealed
by 46 & 47
Vict. c. 39,
s. 1.]

10. *Section twenty-nine of The Abandonment of Railways Act, 1850, from "and they shall accordingly" to the end of that section, and sections thirty, thirty-one, thirty-two, and thirty-three of The Abandonment of Railways Act, 1850, and so much of section thirty-one of The Railway Companies (Scotland) Act, 1867, and of The Railway Companies Act, 1867, respectively, as amends the said sections, are hereby repealed, without prejudice to anything already done thereunder; and all proceedings commenced in pursuance of those sections shall be continued under the provisions of this act.*

RAILWAYS (POWERS AND CONSTRUCTION),
1870.

33 & 34 Vict. Cap. 19. An Act to amend "The Railway Companies Powers Act, 1864," and "The Railway Construction Facilities Act, 1864."
[20th June, 1870.]

WHEREAS it is expedient to amend "The Railway Companies Powers Act, 1864," and also "The Railways Construction Facilities Act, 1864:"

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act may be cited for all purposes as "The Railways (Powers and Construction) Acts, 1864, Amendment Act, 1870." Short title.

2. *From and after the passing of this act, there shall be repealed sections seven and eight of the Railway Companies Powers Act, 1864, and Part I. of the schedule annexed to the said act; and sections nine and ten of The Railways Construction Facilities Act, 1864, and Part I. of the schedule annexed to the said act.* Parts of acts herein named repealed. [Repealed by 46 & 47 Vict. c. 39, s. 1.]

3. Any railway or canal company, which for the purposes of this act shall include the owners, lessees, or proprietors of any canal or inland navigation, may, in case it desires to be heard by counsel, agents, and witnesses against any application for a certificate under The Railway Companies Powers Act, 1864, or for a certificate authorizing any proposed undertaking under The Railways Construction Facilities Act, 1864, (each of which acts is in this act respectively referred to as the Act of Application,) lodge at the office of the board of trade, within the time prescribed by the schedule to this act annexed, a notice in writing to that effect (in this act referred to as a notice of opposition), in the forms set forth in the same schedule, with such variations as circumstances require. Powers of Board of Trade where notice of opposition lodged.

Where a notice of opposition has been lodged the board of trade may nevertheless, if they think fit, proceed upon the application, but they shall in such case

33 & 34 VICT. c. 19. i.

33 & 34 VICT. CAP. 19. settle a provisional certificate in accordance with the provisions of this act.

Every provisional certificate under this act shall be settled in like manner, shall certify to the like effect, and contain the like provisions in every respect as if the same were a draft certificate settled by the board of trade, under the authority of the Act of Application in a like case, but where no notice of opposition was lodged.

When any such provisional certificate is confirmed in manner by this act provided, the same shall have all the force and operation of a certificate duly made and issued by the board of trade, under the authority of the Act of Application, but previously to such confirmation it shall not be of any validity whatsoever.

When any provisional certificate is settled under this act notice thereof shall be given by the promoters in like manner as if the same were a draft certificate under the Act of Application according to the provisions of such act in that behalf.

As to payment of costs of orders.

The costs of and connected with the preparation and making of each provisional certificate shall be paid by the promoters, and the board of trade may require the promoters to give security for such costs before they proceed with the provisional certificate.

Confirmation of Provisional Certificate by act of parliament.

4. On proof to the satisfaction of the board of trade that notice of such certificate was duly given in manner aforesaid, the board of trade shall, as soon as they conveniently can after the expiration of seven days after such proof, procure a bill to be introduced into either house of parliament for an act to confirm the provisional certificate, which shall be set out at length in the schedule to the bill.

If while any such bill is pending in either house of parliament a petition is presented against any provisional certificate comprised therein, the bill, so far as it relates to the certificate petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a bill for a special act.

[Repealed by 46 & 47 Vict. c. 39, s. 1.]

The provisions of the act of this present session of parliament, intituled "An Act to empower Committees on Bills confirming Provisional Orders to award costs and to examine witnesses on oath," shall extend and apply to any select committee to whom any bill to confirm a provisional certificate under this act has been referred, in like manner and subject to the same conditions in every respect as if such provisional certificate were a provisional order.

The act of parliament confirming any provisional certificate shall be deemed a public general act.

33 & 34 VICT. c. 19. ii.

5. *From and after the passing of this act, section 33 & 34 Vict. thirty-three of the said Railways Construction Facilities Act, 1864, relating to the gauge of railways, shall be and the same is hereby repealed, and every railway made under the authority of a certificate under the said act or this act shall be made on such gauge as shall be prescribed by such certificate.* CAP. 19.
[Repealed
by 46 & 47
Vict. c. 39,
s. 1.]

Sections four, six, seven, and eight of the act of the session of the ninth and tenth years of the reign of her present Majesty, chapter fifty-seven, intituled "An Act for Regulating the Gauge of Railways," shall apply to any railway made under the authority of any such certificate as aforesaid, and to the gauge thereby prescribed. Application
of sections
4, 6, 7, and
8 of 9 & 10
Vict. c. 57.

For the purposes of such application the provisions of the certificate relating to gauge shall be deemed to be included in the provisions of the said act of the ninth and tenth years of the reign of her present Majesty chapter fifty-seven. Gauge of
railways.

6. All enactments amending, perpetuating, or otherwise affecting the enactments described in Part IV. of the schedule to the said Railways Construction Facilities Act, 1864, and which are now in force, or which may hereafter become law, shall, in like manner and subject to the like variations and provisions as the enactments described in the said schedule, extend and apply, as the case may require, to the railway, and to the company or persons empowered by the certificate under the said act or this act to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in the said act, save where the same are expressly varied or excepted by such certificate. Amendment
of Part IV.
of the sche-
dule to
27 & 28 Vict.
c. 121.

The SCHEDULE referred to in the foregoing Act.

Notice of Opposition.

In the matter of
The Railways Companies Powers Act, 1864, and The Railways (Powers
and Construction) Acts, 1864, Amendment Act, 1870,
and

The application of the Railway Company for a certificate,
the draft whereof is intituled [*set out title*].

We, the Railway [or Canal] Company hereby declare and
give notice that we desire to be heard by counsel, agents, and witnesses
33 & 34 Vict. c. 19. iii.

against the granting to the above-named railway company of the powers sought to be obtained by them by the above-mentioned application.

Dated this day of 18 .

Witness *A. B.*

L.S.

Or,

Notice of Opposition.

In the matter of

The Railways Construction Facilities Act, 1864, and The Railways (Powers and Construction) Acts, 1864, Amendment Act, 1870, and

The (proposed) Railway.

We, the Railway [or Canal] Company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the above-mentioned proposed undertaking.

Dated this day of 18 .

Witness, A. B.

L.S.

Time for Lodging Notice of Opposition.

Notice of opposition by a Railway or Canal Company is to be lodged at the office of the Board of Trade, not later than the 1st day of August, or the 1st day of January, next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

CATTLE DISEASE (IRELAND), 1870.

33 & 34 Vict. Cap. 36. An Act to amend "The Cattle Disease Act (Ireland) 1866," (so far as it affects Railway Companies.)

[1st August, 1870.]

3. Every steamboat company, railway company, and other company, and every person carrying animals for hire to or from or in any part of Ireland, shall thoroughly cleanse and disinfect in such manner as the lord lieutenant, by and with the advice of her Majesty's privy council in Ireland, from time to time by order may direct, all steamers, vessels, boats, pens, carriages, trucks, horse boxes, and vehicles used by such company or person for the carrying of animals.

Railway and other companies to cleanse and disinfect, &c. [Repealed by 41 & 43 Vict. c. 74.]

If any company or person on any occasion fails to comply with the requisitions of any such order, such company or person shall on every such occasion be deemed guilty of an offence against this act.

4. Every railway company shall make a provision to the satisfaction of the lord lieutenant and her Majesty's privy council in Ireland, of water and food, or either of them, at such stations as they from time to time, by general or specific description, direct for animals carried or about to be or having been carried on the railway of the company; and such water and food, or either of them, shall be supplied to any such animal by the company carrying it, on the request in writing of the consignor thereof, or on the request of any person in charge thereof; and the company so supplying water and food, or either of them, may make in respect thereof such reasonable charges, if any, as the lord lieutenant and her Majesty's privy council in Ireland may by order approve, in addition to such charges as they are for the time being authorised to make in respect of the carriage of animals; and the amount of such additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them, by proceedings in any court of competent jurisdiction, and the company shall have a lien for the amount thereof on the animal in respect of which the same accrued due, and on any other animal at any time

Water and food to be provided by railway companies. [Repealed by 41 & 43 Vict. c. 74.]

33 & 34 VICT. CAP. 36. *consigned by the same person to be carried by the company.*

If any company on any occasion fails to comply with the requirements of this section they shall on every such occasion be deemed guilty of an offence against this act. If in the case of any animal such a request as aforesaid is not made, so that the animal remains without a supply of water for a longer time than twelve consecutive hours, the consignor, and the person in charge of the animal shall each be deemed guilty of an offence against this act ; and it shall lie on the person accused to prove the time within which the animal has had a supply of water

REGULATION OF RAILWAYS, 1871.

34 & 35 Vict. Cap. 78. An Act to amend the Law respecting the Inspection and Regulation of Railways. [14th August, 1871.]

BE it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act so far as is consistent with the tenor thereof shall be construed as one with the Acts mentioned in schedule two to this Act and with the Regulation of Railways Act, 1868, and those Acts and this Act may be cited together as the Regulation of Railways Act, 1840 to 1871; and this Act and each of the Acts mentioned in schedule two to this Act may be cited as the Regulation of Railways Act of the year in which it was passed.

Construction
of Act and
short title.

2. In this Act—

The term "railway" means the whole or any portion of a railway or tramway, whether worked by steam or otherwise, which has been authorised by any special act of parliament or by any certificate under act of parliament :

Interpreta-
tion of
terms.

The term "company" means a company incorporated either before or after the passing of this Act for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose), and includes, except when otherwise expressed, any individual or individuals not incorporated who are owners or lessees of a railway in the United Kingdom or parties to an agreement for working a railway in the United Kingdom :

The term "person" includes a body corporate :

The term "court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff substitute, or other magistrate, or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.

"Court of
summary
jurisdiction."

34 & 35 VICT.
CAP. 78.

Inspection of Railways.

Board of
trade may
appoint
inspectors of
railways.

3. The board of trade may from time to time appoint any person to be inspector for the purpose of inspecting any railway and of making any inquiry with respect to any railway or into the cause of any railway accident which the board of trade are authorised to make or direct, and of enabling the board of trade to carry the provisions of any general Act relating to railways into execution, or for any of such purposes; provided that no person so appointed shall exercise any powers of interference in the affairs of any company.

Powers of
inspectors of
railways.

4. Every inspector under this Act shall for the purpose of any inspection or inquiry which he is directed by the board of trade to make or conduct have the following powers: (that is to say,)

- (1.) He may enter and inspect any railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto:
- (2.) He may by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of a company as defined by this Act, and whom he thinks fit to call before him and examine for the said purpose and may require answers or returns to such inquiries for the said purpose as he thinks fit to make from such person or company:
- (3.) He may require and enforce the production of all books, papers, and documents of a company which he considers important for the said purpose.

Extension of
5 & 6 Vict.
c. 55. ss. 4 to
6, to new
works.

5. The provisions of the Regulation of Railways Act, 1842, and the Acts amending the same, with respect to the opening of any railway, shall extend to the opening of any additional line of railway, deviation line, station, junction, or crossing on the level which forms a portion of or is directly connected with a railway on which passengers are conveyed, and has been constructed subsequently to the inspection of such railway on behalf of the board of trade previous to the original opening of such railway: provided always, that the board of trade may, with respect to any of the works in this section mentioned, from time to time upon the application of any railway company dispense with any notice which, under the provisions of the said Acts, is required to be given to the board of trade previous to opening any railway.

Accidents.

Companies
to make
returns of
accidents to

6. Where in or about any railway or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the
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company working such railway, any of the following accidents takes place in the course of working any railway; (that is to say,)

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- (1.) Any accident attended with loss of life or personal injury to any person whomsoever;
- (2.) Any collision where one of the trains is a passenger train;
- (3.) Any passenger train or any part of a passenger train accidentally leaving the rails;
- (4.) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or to be likely to cause loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the board of trade,

board of
trade.

the company working such railway, and also, if the accident happen to a train belonging to any other company, such last-mentioned company, shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the board of trade.

Such notice shall be in such form and shall contain such particulars as the board of trade may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

The board of trade may from time to time by order direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. Notice of every such order shall be sent to every railway company, and while it is in force notice of every accident of the class to which the order relates shall be sent to the board of trade by telegraph immediately after the accident takes place.


Every company who fail to comply with the provisions of this section shall be liable for each offence to a penalty not exceeding twenty pounds.

7. The board of trade may direct an inquiry to be made by an inspector into the cause of any accident, of which notice is for the time being required by or in pursuance of this Act to be sent to the board of trade; and where it appears to the board of trade, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, the board of trade may, by order, direct such investigation to be held, and with respect to such investigation the following provisions shall have effect:

Inquiry into
accidents,
and formal
investigation
in
serious
cases.

- (1.) The board of trade may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist

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an inspector in holding the same, or may direct the county court judge, stipendiary magistrate, metropolitan police magistrate, or other person or persons named in the same or any subsequent order, to hold the same with the assistance of an inspector or any other assessor or assessors named in the order :

(2.) The persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned :

(3.) The court shall have for the purpose of such investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under this Act, and in addition the following powers ; namely,

(a.) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose :

(b.) They may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make :

(c.) They may require and enforce the production of all books, papers, and documents which they consider important for the said purpose :

(d.) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

(e.) Every person so summoned not being a person engaged in the management, service, or employment of a company, or otherwise connected with a company, shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses :

- (4.) The inspector making an inquiry into any accident and the court holding an investigation of any accident shall make a report to the board of trade stating the causes of the accident and all the circumstances attending the same, and any observations thereon or on the evidence or on any matters arising out of the investigation which they think right to make to the board of trade, and the board of trade shall cause every such report to be made public in such manner as they think expedient.

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8. Where any coroner in England holds or is about to hold an inquest on the death of any person occasioned by an accident, of which notice for the time being is required by or in pursuance of this Act to be sent to the board of trade, and makes a written request to the board of trade in this behalf, the board of trade may appoint an inspector or some person possessing legal or special knowledge to assist in holding such inquest, and such appointee shall act as the assessor of the coroner, and shall make the like report to the board of trade, and the report shall be made public in like manner as in the case of a formal investigation of an accident under this Act.

Appointment of an assessor to coroner.

Railway Statistics.

9. Every company shall annually prepare returns of their capital, traffic, and working expenditure for the last preceding financial year of the company in accordance with the forms contained in schedule one to this Act, and a copy of each return, signed by the chairman or deputy chairman of the directors of the company, and by the officer of the company responsible for the correctness of each return, or any part thereof, shall be forwarded by the company to the board of trade at the times following; (that is to say,)

Companies to furnish statements of capital, traffic, and working expenditure.

if the company is an incorporated company, within fourteen days after the first ordinary half-yearly meeting of the company held in each year:

if the company is not an incorporated company, or fails to hold half-yearly meetings, not later than the thirty-first day of March in each year.

Any company which fails to forward the said return in accordance with the provisions of this section shall be liable to a penalty not exceeding five pounds for every day during which such default continues.

The board of trade, with the consent of a company, may alter the said forms as regards such company for the purpose of adapting them to the circumstances of such company or of better carrying into effect the objects of this section.

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Penalty for
false return.

10. If any return which is required by this Act is false in any particular to the knowledge of any person who signs the same, such person shall be liable on conviction thereof on indictment to fine and imprisonment, or on summary conviction thereof to a penalty not exceeding fifty pounds.

Miscellaneous.

Disobedi-
ence to or
obstruction
of inspector
or court.

11. If any person, without reasonable excuse (proof whereof shall lie on him), does any of the following things; namely,

(1.) Having been summoned, and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before any inspector under this Act, or before a court holding an investigation under this Act, or fails when required by the inspector or such court in pursuance of this Act so to do, to make any answer, or to give any return, or to produce any document, or to make or sign any declaration; or

(2.) Prevents or impedes the inspector or such court in the execution of his or their duty, he shall for every such offence incur a penalty not exceeding ten pounds, and in the case of a refusal to make any return or produce any document, not exceeding ten pounds during every day that such failure continues; and where the offence consists of preventing or impeding as aforesaid, the inspector, or any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a court of summary jurisdiction, to be dealt with according to law.

Limitation
of liability
of companies
on sea
voyages in
certain
cases.

12. Where a railway company under a contract for carrying persons, animals, or goods by sea procure the same to be carried in a vessel not belonging to the railway company, the railway company shall be answerable in damages in respect of loss of life or personal injury, or in respect of loss of or damage to animals or goods, in like manner and to the same amount as the railway company would be answerable if the vessel had belonged to the railway company; provided that such loss of life or personal injury, or loss or damage to animals or goods, happens to the person, animals, or goods (as the case may be) during the carriage of the same in such vessel, the proof to the contrary to lie upon the railway company.

Punishment
of juvenile
offenders for
casting

13. The following Acts—

The Act of the session of the tenth and eleventh years of her majesty's reign (chapter eighty-34 & 35 VICT. c. 78. vi.

two), "for the more speedy trial and punishment of juvenile offenders;" and

The Act of the session of the thirteenth and fourteenth years of her majesty's reign (chapter thirty-seven), "for the further extension of summary jurisdiction in cases of larceny,"

shall have effect as if there had been mentioned therein, in addition to the offence of larceny, the several offences following:

The offences mentioned in sections thirty-two and thirty-three of the Act of the session of the twenty-fourth and twenty-fifth years of her majesty's reign (chapter one hundred), "to consolidate and amend the statute law of England and Ireland relating to offences against the person;" and

The offences mentioned in section thirty-five of the Act of the same session (chapter ninety-seven), "to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property."

Nothing in this section shall affect any offence committed before the passing of this Act.

14. Section twenty-three of "The Regulation of Railways Act, 1868," shall have effect as if the words "after having once received warning" were substituted therein for the words "after having received warning."

Nothing in this section shall affect anything done before the passing of this Act.

15. Every penalty imposed by this Act shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845 (as the case may require), are for the time being recoverable and applicable.

16. In the application of this Act to Scotland—

(1.) The term "attending on subpœna before a court of record" means attending on citation the Court of Justiciary.

(2.) The queen's and lord treasurer's remembrancer shall perform the duties of a master of one of the superior courts under this Act.

(3.) The term "stipendiary magistrate" means a sheriff or sheriff substitute.

17. *The several Acts set forth in schedule two to this Act shall be repealed to the extent to which such Acts are therein expressed to be repealed.*

Provided that any inspector appointed under any enactment hereby repealed shall be deemed to have been

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stones, &c.,
on railway
carriages,
&c.

[Repealed
in so far as
relates to
England by
43 & 43 VICT.
c. 49 second
schedule.]

[Repealed
by 46 & 47
VICT. c. 39,
s. 1.]
Penalty for
trespasses
on railways.
[Repealed
by 46 & 47
VICT. c. 39,
s. 1.]

Recovery,
&c., of pen-
alties.

Application
of Act to
Scotland.

Repeal of
Acts.
[Repealed
by 46 & 47
VICT. c. 39,
s. 1.]

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CAP. 78. Act shall not affect—

- (1.) Anything duly done or suffered before the passing of this Act under any enactment hereby repealed :
- (2.) Any right or privilege acquired or any liability incurred before the passing of this Act under any enactment hereby repealed :
- (3.) Any penalty, forfeiture, or other punishment incurred before the passing of this Act in respect of any offence against any enactment hereby repealed :
- (4.) The institution or prosecution of any investigation or legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

Commence- 18. This Act shall not come into operation until the
ment of Act. first day of November one thousand eight hundred and seventy-one.

Continued on page 574.

SCHEDULE ONE. **RETURNS.**

Form I.

RETURNS in pursuance of _____, by the _____ Railway Company, of their authorised Share and Loan Capital, and the Sums received in respect of their Ordinary Capital, and Preferential Capital, and Debenture Stock, or Funded Debt, on the 31st December, 18—, specifying the Rate per Cent. of the Dividends for the year 18—, on each of the said Capital, showing also the Loans outstanding on the 31st December, 18—, classified according to the several Rates per Cent. of Interest, and the Capital subscribed to other Undertakings, whether such Undertakings are on lease to, or worked by, the Subscribing Company, or are Independent.

NAME OF COMPANY.	* Authorised Capital up to the 31st December, 18—, including Capital authorised as Subscriptions to other Undertakings, whether such Undertakings are on lease to, or worked by, the Subscribing Company, or are Independent.			Paid-up Stock and Share Capital at 31st December, 18—, including Subscriptions paid up to other Undertakings.											
	† By Shares.	By Loans.	Total.	Ordinary.	Rate per Cent. of Dividend.	Guaranteed.	Guaranteed Rate of Dividend.	Rate of Dividend paid.	Preferential.	Preferential Rate of Dividend.	Rate of Dividend paid.	Total paid-up Stock and Share Capital at 31st Dec. 18—.			
	£	£	£	£		£			£			£			

Capital raised by Loans and Debenture Stock at 31st December, 18—.				Total Stock and Share Capital paid up and Capital raised by Loans and Debenture Stock at 31st Dec., 18—.	Subscriptions to other Companies.	REMARKS.
Loans.	Rate of Interest.	Debenture Stock.	Rate of Interest.			
£		£		£	£	

NOTE.—This return should be dated and signed by the officer or officers of the company responsible for its correctness.

* This should include all capital authorised to be raised by Acts of Parliament, or by certificates of the Board of Trade under the Railway Companies Powers Act, 1864; but should not include capital authorised only for purposes which have lapsed by abandonment or otherwise.

† In cases where a subscription is authorised out of *existing* capital, no addition should be made in respect of it to the sum entered in this column, but only to the sum entered in the last column.

‡ Care should be taken not to confound debenture stock with *ordinary* debenture loans, and not to enter the same sum under both heads.

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Receipts (Gross) from Passenger Traffic.						Receipts (Gross) from Goods Traffic.				Miscellaneous Rents, Tolls, Navigation, Steam Boats, &c.	Total Receipts from all Sources of Traffic.	
Receipts from Passengers.					Total Receipts from Excess Luggage, Parcels, Carriages, Horses, Dogs, &c. conveyed in Passenger Trains.	Receipts from Mails.	Total Receipts from Passenger Traffic.	Merchandise.	Live Stock.	Minerals.	Total Receipts from Goods Traffic.	
1st Class.	2d Class.	3d Class (including Parliamentary).	Holders of Season or Periodical Tickets.	Total from Passengers.								
£	£	£	£	£	£	£	£	£	£	£	£	£

This return should be dated and signed by the Officer or Officers of the Company responsible for its correctness.

* If the Company's accounts are made up to a period differing from the above, the period which this statement embraces should be stated.

† Insert here the names of all Railways the traffic of which is included in this statement.
‡ This should not include the length of those lines belonging to other companies over which the company have merely "running powers." It should, however, include half the length of "joint lines."

§ Return tickets to be counted as two passengers, and children as whole passengers.

|| Insert here the actual number of ticket holders, and not an estimate of the number of journeys performed by them.

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FORM III.

Return in pursuance of _____, by the _____ Railway Company,
 of the Working Expenditure and Rolling Stock of the _____ Railway and
 of the _____ Railways, worked or leased by the _____
 Railway Company.

NAME OF RAILWAY COMPANY.	1. Length of Line open on 31st Decem- ber, 18--	WORKING EXPENDITURE During the Year ending 31st December, 18 --							Compensa- tion for Personal Injury, &c.
		2.	3.	4.	5.	6.	7.	8.	
		Maintenance and Renewal of Way and Works.	Locomotive (including Stationary Engines).	Repairs and Renovels of Carriages and Waggons.	Traffic Charges (Coaching and Merchandise)	General Charges.	Rates and Taxes.	Govern- ment Duty.	
	Miles	£	£	£	£	£	£	£	£

10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.
WORKING EXPENDITURE During the Year ending 31st December, 18--.†					ROLLING STOCK on the 31st December, 18--.					
Compensation for Damage and Loss of Goods ‡	Legal and Parliamentary Expenses.	Steamboat, Canal, and Harbour Expenses.	Miscellaneous Working Ex- penditure not included in the foregoing.	Total Working Expendi- ture.	COACHING.			Waggons of all Kinds used for the Conveyance of Live Stock, or Minerals, or General Merchandise.	Any other Carriages or Waggons used on the Rail- way, not in- cluded in the preceding Columns.	Total of the five preceding Columns.
					Loco- motives.	Carriages used for the Conveyance of Passen- gers only.	Other Vehicles attached to Passenger Trains.			
£	£	£	£	£	No.	No.	No.	No.	No.	No.

NOTE.—This return should be dated and signed by the officer or officers of the company responsible for its correctness.

* Here insert the Names of the railways included in this statement.

† If the company's accounts are made up to periods differing from the above, the period which this statement embraces should be stated.

‡ This should not include the length of those lines over which the company have merely "running powers." It should, however, include half the length of "joint lines."

§ In the case of Scotch railways "Fen Duties" should not be included under this head, but under that of "Miscellaneous."

|| "Legal Expenses" connected with compensation should not be included under these heads, but under that of "Legal and Parliamentary Expenses."

N.B.—This return should include sums paid out of renewal or reserve funds of any kind, and the amounts so paid should be stated under the several heads to which they are applicable. It should not, however, include "interest on loans."

Continued from page 577.

SCHEDULE TWO.

Session and Chapter.	Title of Act.	Extent of Repeal.
3 & 4 Vict. c. 97. -	An Act for regulating Railways.	The whole Act, except so much of sections three and four as relates to a table of tolls, rates, and charges, sections seven to nine both inclusive, sections thirteen, fourteen, sixteen to nineteen both inclusive, and twenty-one.
5 & 6 Vict. c. 55. -	An Act for the better regulation of Railways and for the conveyance of Troops.	Sections seven and eight.
7 & 8 Vict. c. 85. -	An Act to attach certain conditions to the construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.	Sections fifteen and sixteen.

[NOTE.—The third column repealed by
46 & 47 Vict. c. 39, s. 1.]

REGULATION OF THE FORCES, 1871.

34 & 35 Vict. Cap. 86. An Act for the better Regulation of the Regular and Auxiliary Land Forces of the Crown; and for other purposes relating thereto (so far as relates to Railways).
[17th August, 1871.]

Power of
Government
on occasion
of emer-
gency to
take posses-
sion of rail-
roads.

16. When her majesty, by order in council, declares that an emergency has arisen in which it is expedient for the public service that her majesty's government should have control over the railroads in the United Kingdom, or any of them, the secretary of state may, by warrant under his hand, empower any person or persons named in such warrant to take possession in the name or on behalf of her majesty of any railroad in the United Kingdom, and of the plant belonging thereto, or of any part thereof, and may take possession of any plant without taking possession of the railroad itself, and to use the same for her majesty's service at such times and in such manner as the secretary of state may direct; and the directors, officers, and servants of any such railroad shall obey the directions of the secretary of state as to the user of such railroad or plant as aforesaid for her majesty's service.

Any warrant granted by the said secretary of state in pursuance of this section shall remain in force for one week only, but may be renewed from week to week so long as, in the opinion of the said secretary of state, the emergency continues.

There shall be paid to any person or body of persons whose railroad or plant may be taken possession of in pursuance of this section, out of moneys to be provided by parliament, such full compensation for any loss or injury they may have sustained by the exercise of the powers of the secretary of state under this section as may be agreed upon between the said secretary of state and the said person or body of persons, or, in case of difference, may be settled by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845."

Where any railroad or plant is taken possession of in the name or on behalf of her majesty in pursuance of this section, all contracts and engagements between the person or body of persons whose railroad is so taken

possession of and the directors, officers, and servants of such person or body of persons, or between such person or body of persons and any other persons in relation to the working or maintenance of the railroad, or in relation to the supply or working of the plant of such railroad, which would, if such possession had not been taken, have been enforceable by or against the said person or body of person, shall during the continuance of such possession be enforceable by or against her majesty.

For the purposes of this section "railroad" shall include any tramway, whether worked by animal or mechanical power, or partly in one way and partly in the other, and any stations, works, or accommodation belonging to or required for the working of such railroad or tramway.

"Plant" shall include any engines, rolling stock, horses, or other animal or mechanical power, and all things necessary for the proper working of a railroad or tramway which are not included in the word "railroad."

RAILWAY ROLLING STOCK (DISTRAINT), 1872.

35 & 36 Vict. Cap. 50. An Act to protect Railway Rolling Stock from Distraint when on Hire.

[6th August, 1872.]

WHEREAS it is expedient that protection from distress should in certain cases be extended to rolling stock :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Short title.

1. This act may be cited as "The Railway Rolling Stock Protection Act, 1872."

Interpretation of terms.

2. In this act—

"Rolling stock" includes wagons, trucks, carriages of all kinds, and locomotive engines used on railways :

Rent" includes royalty or other reservation in the nature of rent :

Work" includes any colliery, quarry, mine, manufactory, warehouse, wharf, pier, or jetty, in or on which is any railway siding :

Tenant" includes a lessee, sub-lessee, or other person having an interest in a work under a lease or agreement, or by use and occupation, or being otherwise liable to pay rent in respect of a work :

"Person" includes a body corporate.

"Court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff substitute, or other magistrate or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.

Rolling stock protected from distress or sale in certain cases.

3. Rolling stock being in a work shall not be liable to distress for rent payable by a tenant of the work, if such rolling stock is not the actual property of such tenant, and has upon it a distinguishing metal plate affixed to a conspicuous part thereof, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the actual owner thereof.

Remedy in case distress proceeded with.

4. Where any such rolling stock as aforesaid is distrained, a court of summary jurisdiction may make against the landlord such summary order for restoration

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tion of the rolling stock, or for payment of the real value thereof, and respecting costs or otherwise, and may make against the person distraining such order in the matter, and respecting costs, as to the court seems just.

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5. This act shall not extend to protect from distress the interest which any tenant may have in any rolling stock otherwise protected under this act, but such interest may be distrained upon by the landlord, and disposed of in the same manner as the whole interest of such tenant, if he had possessed the same; and in case of disagreement between the landlord and the parties claiming such rolling stock as to the mode of disposing of such interest, the same shall be settled by the court of summary jurisdiction; and the court shall, on the application of either party, make such order therein as to the court shall seem fit.

Not to extend to protect tenant's interest in rolling stock.

6. If any party thinks himself aggrieved by any order or adjudication of a court of summary jurisdiction under this act, or by dismissal of his complaint by any such court, he may appeal therefrom, subject to the conditions and regulations following; (that is to say,)

Appeal to quarter sessions.

- (1.) The appeal shall be made to some court of general or quarter sessions *for the county or place in which the cause of appeal arises, holden not less than fifteen days, and (unless adjourned by the court of appeal) not more than four months after the decision of the court of summary jurisdiction:* [Amended by 47 & 48 VICT. c. 43, s. 4.]
- (2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and the ground thereof:
- (3.) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security, by deposit of money or otherwise, as the justice thinks fit to allow.

7. No order or conviction of a court of summary jurisdiction under this act shall be quashed for want of form, or be removed by certiorari or otherwise (at the instance either of the Crown or of any private party) into any superior court.

Exclusion of certiorari.

**KENSINGTON STATION AND NORTH AND
SOUTH LONDON JUNCTION RAILWAY
ACT, 1859 (REPAYMENT OF MONEYS), 1872.**

35 & 36 Vict. cap. 80. An Act to enable the Commissioners of her Majesty's Treasury to pay into the High Court of Chancery in England certain moneys, being the amount paid to the Paymaster-General on account of her Majesty's Treasury in respect of the Non-completion of the Railway authorised by "The Kensington Station and North and South London Junction Railway Act, 1859."

[10th August, 1872.]

WHEREAS by "The Kensington Station and North and South London Junction Railway Act, 1859," hereinafter called the recited act, the Kensington Station and North and South London Junction Railway Company, hereinafter called "the company," was incorporated, with powers to make and maintain a railway from near Lillie Bridge in the parish of Saint Mary Abbott's, Kensington, to a point in the same parish on the west side of Love Lane, the object being, by connecting the said railway with the then proposed extension of the West London Railway, to facilitate communication between divers railways south of the Thames and the western districts of the metropolis, and for other purposes :

And whereas pursuant to the Standing Orders of both Houses of Parliament and to an act of the session of the ninth and tenth years of her present Majesty, chapter twenty, a sum of five thousand seven hundred and sixty pounds, being eight pounds per centum on the estimate of the expense of the railway authorised by the recited act, was deposited with the Court of Chancery in England in respect of the application to Parliament for the act :

And whereas in pursuance of the twenty-fifth section of the recited act that sum of five thousand seven hundred and sixty pounds was released upon a bond being executed to her Majesty, her heirs and successors, by the company and by Samuel Gurney, then of Prince's Gate, in the county of Middlesex, a member of the firm of Overend, Gurney, and Company, and who in this acted as surety for the Company in the penal sum of

35 & 36 VICT. c. 80. i.

eleven thousand five hundred and twenty pounds, conditioned to be void if the railway was opened for the conveyance of passengers within the time limited by the recited act, or if it should be proved to the satisfaction of the Lords of the Committee of her Majesty's Privy Council for trade and foreign plantations that the company had paid up and expended for the purposes of their act one-half of the amount of their authorised share capital, or if the company should pay to her Majesty, her heirs or successors, the full sum of five thousand seven hundred and sixty pounds :

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And whereas no steps were taken to construct the railway mentioned in the recited act, and the objects sought to be accomplished have, by the projection and subsequent sanction by Parliament of the Metropolitan District Railway, which has been constructed and is now open for public traffic, been more completely effected :

And whereas the powers granted by the recited act expired on the thirteenth day of August one thousand eight hundred and sixty-two :

And whereas the bond to her Majesty, her heirs and successors, so executed by the company and the said Samuel Gurney, was on the third day of July one thousand eight hundred and sixty-one registered by the officers of the Crown at the Common Pleas, and thus constituted an obligation affecting his estates :

And whereas on or about the thirty-first day of July in the year one thousand eight hundred and sixty-five the firm of Overend, Gurney, and Company sold and transferred their business to a firm or company under the name or style of Overend, Gurney, and Company (Limited), hereinafter called "the limited company :

And whereas on or about the tenth day of May, in the year one thousand eight hundred and sixty-six, the limited company stopped payment, and William Turquand, of Tokenhouse Yard, and Robert Palmer Harding of the Old Jewry, in the city of London, public accountants, were appointed liquidators to wind up the affairs of that company :

And whereas on or about the fifteenth day of August, one thousand eight hundred and sixty-six, the said William Turquand and Robert Palmer Harding were also appointed inspectors to superintend the realisation and winding-up of the affairs of the members of the said firm of Overend, Gurney, and Company (of whom the said Samuel Gurney was one), the limited company being the principal creditors of the firm of Overend, Gurney and Company.

35 & 36 VICT.
CAP. 80.

And whereas in the years one thousand eight hundred and sixty-six and one thousand eight hundred and sixty-seven the said William Turquand and Robert Palmer Harding gave instructions for the sale (among other properties) of various estates belonging to the said Samuel Gurney, and, owing to the disastrous circumstances attending the failure of the limited company and the necessity that existed of raising as speedily as possible large sums of money to meet the demands of the liquidation, it was matter of imperative necessity that those estates should be sold and the sales carried out with the greatest practicable expedition :

And whereas upon the sale in lots of portions of the estates of the said Samuel Gurney the purchasers refused to complete their purchases and pay their purchase moneys until the properties purchased by them had respectively been discharged from all liability in respect of the bond to Her Majesty, her heirs and successors, registered at the Common Pleas as aforesaid :

And whereas upon the application of the said William Turquand and Robert Palmer Harding to the Commissioners of Her Majesty's Treasury, certificates of exoneration were from time to time granted, relieving the properties so sold from liability in respect of the said bond, but when the sales of the last of the properties belonging to the said Samuel Gurney had to be completed, the Commissioners of Her Majesty's Treasury, in reply to a memorial presented on his behalf praying that his estates might be released from liability in respect of the said bond, replied that they were advised they had no power to remit the penalties or conditions prescribed by the recited act :

And whereas it being of the utmost importance that the assets of the estate of the said Samuel Gurney should be realised and distributed as rapidly as possible, the said William Turquand and Robert Palmer Harding thereupon paid, on the third day of April one thousand eight hundred and sixty-seven, to the Paymaster-General on account of her Majesty's Treasury the said sum of five thousand seven hundred and sixty pounds, and by consent of her Majesty's Attorney-General and by order of the Court of Queen's Bench satisfaction was thereupon entered at the Common Pleas in respect of the said bond :

And whereas the assets of the said Samuel Gurney have proved utterly inadequate to meet the claims on his estate, and the said William Turquand and Robert Palmer Harding are now bringing to a close their liquidation and inspectorship :

35 & 36 VICT. c. 80. iii.

And whereas under the provisions of "The Abandonment of Railways Act, 1850," and "The Railways Companies Act, 1867," the Board of Trade was authorised, upon application made in the manner therein prescribed, and under circumstances analogous to those affecting the railway authorised by the recited act, to grant warrants or certificates for the abandonment of railways, and upon any such warrant or certificate the Commissioners of Her Majesty's Treasury may cancel and deliver up any bond entered into or on behalf of the railway company obtaining such warrant or certificate:

35 & 36 VICT.
CAP. 80.

And whereas numerous applications have been made to the Board of Trade under those acts, and bonds cancelled under the provisions and in accordance with the conditions of "The Railway Companies Act, 1867," and "The Abandonment of Railways Act, 1869 :"

And whereas in the whole circumstances before recited it is expedient that relief should be granted for the benefit of the estate and creditors of the said Samuel Gurney by the repayment to the said William Turquand and Robert Palmer Harding of the aforesaid sum of five thousand seven hundred and sixty pounds:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This act may for all purposes be cited as "The Kensington Station and North and South London Junction Railway Act, 1859 (Repayment of Moneys), Act, 1872." Short title.

2. The expression "the liquidators" used in this act shall mean William Turquand and Robert Palmer Harding, the liquidators appointed by the Court of Chancery to wind up the estate of Overend, Gurney, and Company (Limited), or the liquidators for the time being of the said estate appointed by the Court of Chancery. Interpretation:
"Liquidators."

3. The liquidators may make or cause to be made application to the Board of Trade, in manner provided by "The Abandonment of Railways Act, 1850," "The Railway Companies Act, 1867," and "The Abandonment of Railways Act, 1869," for a warrant for the abandonment of the whole of the undertaking authorised by "The Kensington Station and North and South London Junction Railway Act, 1859," in the same manner as if they had executed the said bond to Her Majesty, her heirs and successors, as sureties for the

Power for liquidators to apply for warrant of abandonment, and for the Treasury to pay £5,760 into Court of Chancery.

35 & 36 VICT.
CAP. 80.

company, and the said warrant may be granted to the liquidators accordingly, and if granted shall for all the purposes of the said acts be deemed to have been granted to the said Samuel Gurney as surety to the said bond, and all proceedings consequent thereon or in relation thereto, which might have been taken by the said Samuel Gurney if the said warrant had been granted to him as surety to the said bond, may be taken by the liquidators, and all powers which might have been exercised by the said Samuel Gurney upon the grant of such warrant under the said order, or any of them, may be exercised by the liquidators as fully in all respects as if they had executed the said bond in the place of the said Samuel Gurney. On such warrant being granted the Commissioners of Her Majesty's Treasury for the time being may, out of moneys to be provided by Parliament for the purpose, pay into the High Court of Chancery in England the said sum of five thousand seven hundred and sixty pounds, which sum by reason of the non-completion of the said railway was paid to the Paymaster General on account of Her Majesty's Treasury, and the said sum shall, for all the purposes of the said Acts of Parliament, be deemed to be the money deposited as security for the completion of the said railway.

INTOXICATING LIQUOR (LICENSING), 1872.

35 & 36 Vict. Cap. 94. An Act for regulating
the Sale of Intoxicating Liquors (so far as relates
to Railways). [10th August, 1872.]

24. "Nothing in this section contained shall pre-clude the sale at any time, at a railway station, of intoxicating liquors to persons arriving at or departing from such station by railroad." Times of
closing.

78. "Nothing in this section contained shall pre-clude the sale at any time, at a railway station, of intoxicating liquors to persons arriving at or departing from such station by railroad." Closing of
premises at
certain
hours on
Sunday,
Christmas
Day, Good
Friday, &c.

RAILWAY AND CANAL TRAFFIC, 1873.

36 & 37 Vict. Cap. 48. An Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes connected therewith. [21st July, 1873.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

- Short title.** 1. This act may be cited as the "Regulation of Railways Act, 1873."
- Commencement of Act.** 2. This act shall, except as herein is otherwise expressly provided, come into operation on the 1st day of September, 1873, which date is in this act referred to as the commencement of this act.
- Definitions.** 3. In this act—
 The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom, constructed or carried on under the powers of any act of Parliament:
 The term "canal company" includes any person being the owner or lessee of or working or entitled to charge tolls for the use of any canal in the United Kingdom, constructed or carried on under the powers of any Act of Parliament:
 The term "person" includes a body of persons, corporate or unincorporate:
 The term "railway" includes every station, siding, wharf or dock, of or belonging to such railway, and used for the purposes of public traffic:
 The term "canal" includes any navigation which has been made under or upon which tolls may be levied by authority of Parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic:
 The term "traffic" includes not only passengers and their luggage, goods, animals and other things conveyed by any railway company or canal company, but also carriages, wagons, trucks, boats
- 36 & 37 VICT. c. 48. i.

and vehicles of every description adapted for ^{36 & 37 VICT.} running or passing on the railway or canal of any such company ^{CAP. 48.}:

The term "mails" includes mail bags and post-letter bags:

The term "special act" means a local or local and personal act, or an act of a local and personal nature, and includes a provisional order of the Board of Trade confirmed by act of Parliament, and a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864:

The term "the Treasury" means the Commissioners of her Majesty's Treasury for the time being:

The term "superior court" means in England any of her Majesty's superior courts at Westminster, in Ireland any of her Majesty's superior courts at Dublin, and in Scotland the Court of Session.

Appointment and Duties of Railway Commissioners.

4. For the purpose of carrying into effect the provisions of the Railway and Canal Traffic Act, 1854, and of this act, it shall be lawful for her Majesty, at any time after the passing of this act, by warrant under the Royal sign manual, to appoint not more than three commissioners, of whom one shall be of experience in the law and one of experience in railway business, and not more than two assistant commissioners; and upon the occurrence of any vacancy in the office of any such commissioner or assistant commissioner, from time to time in like manner to appoint some fit person to fill the vacancy. It shall be lawful for the Lord Chancellor, if he think fit, to remove for inability or misbehaviour any commissioner appointed in pursuance of this Act.

Appoint-
ment of
Railway
Commis-
sioners.

The three commissioners appointed under this act (and in this act referred to as the commissioners) shall be styled the railway commissioners, and shall have an official seal, which shall be judicially noticed. They may act, notwithstanding any vacancy in their number. The said assistant commissioners shall hold office during the pleasure of her Majesty.

5. Any person appointed a commissioner under this act shall within three calendar months after his appointment absolutely sell and dispose of any stock, share, debenture stock, debenture bond, or other security of any railway or canal company in the United Kingdom which he shall at the time of his appointment own or be interested in for his own benefit; and it

Commis-
sioners not
to be in-
terested in
railway or
canal stock.

36 & 37 VICT.
CAP. 48.

shall not be lawful for any person appointed a commissioner under this act, so long as he shall hold office as such commissioner, to purchase, take or become interested in for his own benefit, any such stock, share, debenture stock, debenture bond, or other security; and if any such stock, share, debenture stock, debenture bond, or other security, or any interest therein, shall come to or vest in such commissioner by will or succession, for his own benefit, he shall within three calendar months after the same shall so come to or vest in him absolutely sell and dispose of the same or his interest therein.

It shall not be lawful for the commissioners, except by consent of the parties to the proceedings, to exercise any jurisdiction by this act conferred upon them in any case in which they shall be, directly or indirectly, interested in the matter in question.

The commissioners shall devote the whole of their time to the performance of their duties under this act, and shall not accept or hold any office or employment inconsistent with this provision.

Transfer to
Commissioners of
jurisdiction
under 17 &
18 Vict.
c. 31, s. 3.

6. Any person complaining of anything done, or of any omission made in violation or contravention of section two of the Railway and Canal Traffic Act, 1854, or of section sixteen of the Regulation of Railways Act, 1868, or of this act, or of any enactment amending or applying the said enactments respectively, may apply to the commissioners, and upon the certificate of the Board of Trade alleging any such violation or contravention, any person appointed by the Board of Trade in that behalf, may in like manner apply to the commissioners; and for the purpose of enabling the commissioners to hear and determine the matter of any such complaint, they shall have and may exercise all the jurisdiction conferred by section three of the Railway and Canal Traffic Act, 1854, on the several courts and judges empowered to hear and determine complaints under that act; and may make orders of like nature with the writs and orders authorised to be issued and made by the said courts and judges; and the said courts and judges shall, except for the purpose of enforcing any decision or order of the commissioners, cease to exercise the jurisdiction conferred on them by that section.

Power for
Commissioners
to enable
companies
to explain
alleged vio-

7. Where the commissioners have received any complaint alleging the infringement by a railway company or canal company of the provisions of any enactment in respect of which the commissioners have jurisdiction, they may, if they think fit, before requiring or per-

mitting any formal proceedings to be taken on such complaint, communicate the same to the company against whom it is made, so as to afford them an opportunity of making such observations thereon as they may think fit. 36 & 37 VICT. CAP. 48.
[See Part II of 37 & 38 VICT. c. 40.]

8. Where any difference between railway companies or between canal companies, or between a railway company and a canal company, is, under the provisions of any general or special act, passed either before or after the passing of this act, required or authorised to be referred to arbitration, such difference shall, at the instance of any company party to the difference, and with the consent of the commissioners, be referred to the commissioners for their decision, in lieu of being referred to arbitration; provided that the power of compelling a reference to the commissioners in this section contained, shall not apply to any case in which any arbitrator has in any general or special act been designated by his name or by the name of his office, or in which, a standing arbitrator having been appointed under any general or special act, the commissioners are of opinion that the difference in question may more conveniently be referred to him. Differences between railway and canal companies to be referred to Commissioners.

9. Any difference to which a railway company or canal company is a party, may, on the application of the parties to the difference, and with the assent of the commissioners, be referred to them for their decision. Power to refer differences to Commissioners.

10. The following powers and duties of the Board of Trade shall be transferred to the commissioners, namely, Transfer to Commissioners of certain powers and duties of the Board of Trade.

(1.) The powers of the Board of Trade under Part 3 of the Railway Clauses Act, 1863, or under any special act, with respect to the approval of working agreements between railway companies; and, 26 & 27 VICT. c. 92.

(2.) The powers and duties of the Board of Trade under section thirty five of the Railway Clauses Act, 1863, with respect to the exercise by railway companies of their powers in relation to steam vessels;

And the provisions of the said acts conferring such powers or imposing such duties, or otherwise referring to such powers or duties, shall, so far as is consistent with the tenor thereof, be read as if the commissioners were therein named instead of the Board of Trade.

Explanation and Amendment of Law.

11. Whereas by section two of the Railway and Canal Traffic Act, 1873, 36 & 37 VICT. c. 48. iv. Explanation of 17 & 18

36 & 37 VICT.
CAP. 48.

Vict. c. 31,
s. 2. as to
through
traffic.

Canal Traffic Act, 1854, it is enacted that every railway company and canal company and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company, and railway or canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:

And whereas it is expedient to explain and amend the said enactment: Be it therefore enacted, that—

Subject as hereinafter mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company, and railway or canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this act referred to as through rates).

Provided as follows:

- (1.) The company requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and its

apportionment, and the route by which the traffic is proposed to be forwarded :

36 & 37 VICT.
CAP. 48.

- (2.) Each forwarding company shall, within the prescribed period after the receipt of such notice, by written notice inform the company requiring the traffic to be forwarded whether they agree to the rate and route ; and, if they object to either, the grounds of the objection :
- (3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration :
- (4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the commissioners for their decision :
- (5.) If an objection be made to the granting of the rate or to the route, the commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances the route proposed is a reasonable route, and shall allow or refuse the rate accordingly :
- (6.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the commissioners as to its apportionment shall be retrospective ; in any other case the operation of the rate shall be suspended until the decision is given :
- (7.) The commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof :
- (8.) It shall not be lawful for the commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route :
- (9.) The prescribed period mentioned in this section

36 & 37 VICT. c. 48. vi.

38 & 37 VICT.
CAP. 48.

shall be ten days, or such longer period as the commissioners may from time to time by general order prescribe.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

Powers of
Commissioners as to
through
rates.

12. Subject to the provisions in the last preceding section contained, the commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

Provision
for com-
plaints by
public
authority
in certain
cases.

13. A complaint of a contravention of section 2 of the Railway and Canal Traffic Act, 1854, as amended by this act, may be made to the commissioners by a municipal or other public corporation, local or harbour board, without proof that the complainants are aggrieved by the contravention: Provided that a complaint shall not be entertained by the commissioners in pursuance of this section unless such complaint is accompanied by a certificate of the Board of Trade to the effect that in their opinion the case in respect of which the complaint is made is a proper one to be submitted for adjudication to the commissioners by such municipal or other public corporation, local or harbour board.

Publication
of rates.

14. Every railway company and canal company shall keep at each of their stations and wharves a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf of every station, wharf, siding, or place to which any such rate is charged.

Every such book shall during all reasonable hours be open to the inspection of any person without the payment of any fee.

The commissioners may from time to time, on the application of any person interested, make orders with respect to any particular description of traffic, requiring a railway company or canal company to distinguish in such book how much of each rate is for the conveyance of the traffic on the railway or canal, including

therein tolls for the use of the railway or canal, for the use of carriages or vessels, or for locomotive power, and how much is for other expenses, specifying the nature and detail of such other expenses.

36 & 37 VICT.
CAP. 43.

Any company failing to comply with the provisions of this section shall for each offence, and in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, and such penalty shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845, (as the case may require,) are for the time being recoverable and applicable.

15. The commissioners shall have power to hear and determine any question or dispute which may arise with respect to the terminal charges of any railway company, where such charges have not been fixed by any act of parliament, and to decide what is a reasonable sum to be paid to any company for loading and unloading, covering collection, delivery, and other services of a like nature; any decision of the commissioners under this section shall be binding on all courts and in all legal proceedings whatsoever.

Power to
Commissioners to
fix terminal
charges.

16. No railway company or canal company, unless expressly authorised thereto by any act passed before the passing of this act, shall, without the sanction of the commissioners, to be signified in such manner as they may by general order or otherwise direct, enter into any agreement whereby any control over or right to interfere in or concerning the traffic carried or rates or tolls levied on any part of a canal is given to the railway company, or any persons managing or connected with the management of any railway; and any such agreement made after the commencement of this Act without such sanction shall be void.

Arrange-
ments
between
railway
companies
and canal
companies.

The commissioners shall withhold their sanction from any such agreement which is in their opinion prejudicial to the interests of the public.

Not less than one month before any such agreement is so sanctioned, copies of the intended agreement, certified under the hand of the secretary of the railway company or one of the railway companies party or parties thereto, shall be deposited for public inspection at the office of the commissioners, and also at the office of the clerk of the peace of the county, riding, or division in England or Ireland in which the head office of any canal company party to the agreement is situate, and at the office of the principal sheriff clerk of every

36 & 37 VICT.
CAP. 48.

such county in Scotland, and notice of the intended agreement, setting forth the parties between whom or on whose behalf the same is intended to be made, and such further particulars with respect thereto as the commissioners may require, shall be given by advertisement in the London, Edinburgh, or Dublin Gazette, according as the head office of any canal company party to the agreement is situate in England, Scotland, or Ireland, and shall be sent to the secretary or principal officer of every canal company any of whose canals communicate with the canal of any company party to the agreement; and shall be published in such other way, if any, as the commissioners for the purpose of giving notice to all parties interested therein by order direct.

Maintenance of canals by railway companies.

17. Every railway company owning or having the management of any canal or part of a canal shall at all times keep and maintain such canal or part, and all the reservoirs, works and conveniences thereto belonging, thoroughly repaired and dredged and in good working condition, and shall preserve the supplies of water to the same, so that the whole of such canal or part may be at all times kept open and navigable for the use of all persons desirous to use and navigate the same without any unnecessary hindrance, interruption or delay.

Conveyance of Mails.

Conveyance of mails.

18. Every railway company shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster-General or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the Postmaster-General.

Every railway company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked or interposing any other delay.

Where the mails are in charge of a guard appointed by the Postmaster-General, every railway company shall permit such guard, if he think fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

Remuneration for conveyance of mails.

19. Every railway company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this act with respect to the conveyance of mails, and such remuneration shall be paid by the Postmaster-General.

36 & 37 VICT. c. 48. ix.

Any difference between the Postmaster-General and any railway company as to the amount of such remuneration, or as to any other question arising under this act, shall be decided by arbitration, in manner provided by the act of the session of the first and second years of the reign of her present Majesty, chapter ninety-eight, or, at the option of such railway company, by the commissioners. 36 & 37 VICT.
CAP. 48.

20. Where a railway company use, maintain or work, or are party to any arrangement for using, maintaining, or working steam-vessels for the purpose of carrying on a communication between any towns or ports, all provisions contained in any act with respect to the conveyance of mails by railway shall, so far as they are applicable to the conveyance of mails by steam-vessels, extend to the steam-vessels so used, maintained, or worked. Conveyance
of mails
on steam
vessels.

Regulations as to Commissioners.

21. The assistant-commissioners shall be subject to the orders of the commissioners, and shall make such inquiries and reports and perform such other acts and services as the commissioners may direct; and it shall be lawful for such assistant-commissioners, or either of them, to undertake such arbitration under the act as the commissioners with the consent of the parties to such arbitration may direct; and the said assistant commissioners for the purposes of such inquiries, reports, and arbitrations shall have and may exercise all powers of entry, inspection, summoning and examining witnesses, requiring the production of documents, and administering an oath by this act conferred upon the commissioners. Assistant-
Commis-
sioners.

22. There shall be paid to each of the commissioners such salary, not exceeding three thousand pounds a year, and to each assistant commissioner such salary not exceeding fifteen hundred pounds a year, as the Treasury determine. Salary of
Commis-
sioners.

The salaries and expenses of the commissioners and of their officers and of the assistant-commissioners shall be paid out of moneys to be provided by Parliament.

23. The commissioners may from time to time, in the exercise of any jurisdiction in this act conferred on them, with the consent of the Treasury, call in the aid of one or more assessors who shall be persons of engineering or other technical knowledge. There shall be paid to such assessors such remuneration as the Assessors.

36 & 37 VICT. c. 48. x.

36 & 37 VICT. CAP. 48. Treasury, upon the recommendation of the commissioners, may direct.

Appoint-
ment of
officers.

24. The commissioners may from time to time appoint such officers and clerks with such salaries as the commissioners, with the sanction of the Treasury think fit.

Powers of
Commis-
sioners.

25. For the purposes of this act the commissioners shall, subject as in this act mentioned, have full power to decide all questions whether of law or of fact, and shall also have the following powers; that is to say,

- (a.) They may, by themselves, or by any person appointed by them to prosecute an inquiry, enter and inspect any place or building, being the property or under the control of any railway or canal company, the entry or inspection of which appears to them requisite.
- (b.) They may require the attendance of all such persons as they think fit to call before them and examine, and may require answers or returns to such inquiries as they think fit to make;
- (c.) They may require the production of all books, papers, and documents relating to the matters before them;
- (d.) They may administer an oath;
- (e.) They may when sitting in open court punish for contempt in like manner as if they were a court of record.

Every person required by the commissioners to attend as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred to a master of one of the superior courts, who, on request, under the hands of the commissioners, shall ascertain and certify the proper amount of such expenses.

Orders of
Commis-
sioners.

26. Any decision or any order made by the commissioners for the purpose of carrying into effect any of the provisions of this act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section three of the Railway and Canal Traffic Act, 1854, as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

The commissioners may review and rescind or vary
36 & 37 VICT. c. 48. xi.

any decision or order previously made by them or any ^{36 & 37 VICT. CAP. 48.} of them.

The commissioners shall, in all proceedings before them under sections 6, 11, 12, and 13 of this act, and may, if they think fit, in all other proceedings before them under this act, at the instance of any party to the proceedings before them, and upon such security being given by the appellant as the commissioners may direct, state a case in writing for the opinion of any superior court, determined by the commissioners, as upon any question which in the opinion of the commissioners is a question of law.

The court to which the case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the commissioners with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such order as to costs, as to the court may seem fit, and all such orders shall be final and conclusive on all parties : provided that the commissioners shall not be liable to any costs in respect or by reason of any such appeal.

The operation of any decision or order made by the commissioners shall not be stayed pending the decision of any such appeal, unless the commissioners shall otherwise order.

Save as aforesaid, every decision and order of the commissioners shall be final.

27. The commissioners shall sit at such times and in such places, and conduct their proceedings in such manner, as may seem to them most convenient for the speedy despatch of business ; they may, subject as in this act mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court. ^{Sittings of commissioners.}

28. The costs of and incidental to any proceeding before the commissioners shall be in the discretion of the commissioners. ^{Costs.}

29. The commissioners may at any time after the passing of this act, and from time to time, make such general orders as may be requisite for the regulation of proceedings before them, including applications for and the stating of cases for appeal, and also for prescribing, directing, or regulating any matter which they are authorised by this act to prescribe, direct, or regulate by general order, and also for enabling the commissioners in cases to be specified in such general orders to ^{Power of commissioners to make general orders.}

relation to proceedings before them, and may from time to time, by general order, with the like concurrence, increase, reduce, or abolish all or any of such fees, and appoint new fees to be taken in relation to such proceedings. 36 & 37 VICT. CAP. 48.

33. *The Public Offices Fees Act, 1866, shall apply to all fees taken in relation to any proceedings before the commissioners.* Collection of fees. 29 & 30 VICT. c. 78.

Any fee or payment in the nature or lieu of a fee paid in respect of any proceedings before the commissioners, and collected otherwise than by means of stamps, shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and carried to the Consolidated Fund. [Repealed by 46 & 47 VICT. c. 59, s. 1.]

34. The costs, charges, and expenses of and incidental to any proceedings before the commissioners which are incurred by any person shall, if required, be taxed in the same manner and by the same persons as if such proceedings were proceedings in a superior court. Taxation of costs.

35. Any notice required or authorised to be given under this act may be in writing or in print, or partly in writing and partly in print, and may be sent by post, and if sent by post shall be deemed to have been received at the time when the letter containing the same would have been delivered in the ordinary course of the post; and in proving such sending it shall be sufficient to prove that the letter containing the notice was prepaid and properly addressed and put into a post-office. Notices how to be given

36. In the application of this act to Scotland—

(1). The term "attending on subpoena before a "Court of Record" means attending on citation the Court of Justiciary;

(2.) The Queen's and Lord Treasurer's Remembrancer shall perform the duties of a master of one of the superior courts under this act. Application of Act to Scotland.

Temporary Provisions.

37. This act shall continue in force for five years next after the passing of this act, and thenceforth until the end of the then next session of Parliament, but the expiration of this act shall not affect the validity of anything done before such expiration. Duration of office and powers of commissioners.

[Extended to 31st December, 1886, by 47 & 48 VICT. c. 53, s. 2.]

36 & 37 VICT.
CAP. 48.

exercise their jurisdiction by any one or two of their number: provided, that any person aggrieved by any decision or order made in any case so specified may require a re-hearing by all the commissioners; they may further make regulations for enabling them to carry into effect the provisions of this act, and may from time to time revoke and alter any general orders or regulations made in pursuance of this act. Every general order, and every alteration in a general order, made in pursuance of this section shall be submitted to the Lord Chancellor for approval, and shall not come into force until it shall be approved by him.

Every general order purporting to be made in pursuance of this act shall, immediately after the making thereof, be laid before both houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within seven days after the then next meeting of Parliament, and if either house of Parliament by a resolution passed within two months after such general order has been so laid before the said house, resolve that the whole or any part of such general order ought not to continue in force, the same shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other general order in its place, or to anything done in pursuance of such general order before the date of such resolution; but, subject as aforesaid, every general order purporting to be made in pursuance of this act shall be deemed to have been duly made and within the powers of this act, and shall have effect as if it had been enacted in this act.

Evidence of documents.

30. Every document purporting to be signed by the commissioners, or any one of them, shall be received in evidence without proof of such signature, and until the contrary is proved shall be deemed to have been so signed and to have been duly executed or issued by the commissioners.

Commissioners to make annual reports.

31. The commissioners shall, once in every year, make a report to her Majesty of their proceedings under this act during the past year, and such report shall be laid before both houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament.

Miscellaneous.

Determination of fees.

32. The commissioners may, at any time after the passing of this act, by general order, with the concurrence of the Treasury, appoint the fees to be taken in
36 & 37 VICT. c. 48. xiii.

relation to proceedings before them, and may from time to time, by general order, with the like concurrence, increase, reduce, or abolish all or any of such fees, and appoint new fees to be taken in relation to such proceedings.

36 & 37 VICT.
CAP. 48.

33. *The Public Offices Fees Act, 1866, shall apply to all fees taken in relation to any proceedings before the commissioners.*

Collection of fees.
29 & 30 VICT.
c. 76.

Any fee or payment in the nature or lieu of a fee paid in respect of any proceedings before the commissioners, and collected otherwise than by means of stamps, shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and carried to the Consolidated Fund.

[Repealed
by 46 & 47
VICT. c. 89,
s. 1.]

34. The costs, charges, and expenses of and incidental to any proceedings before the commissioners which are incurred by any person shall, if required, be taxed in the same manner and by the same persons as if such proceedings were proceedings in a superior court.

Taxation of
costs.

35. Any notice required or authorised to be given under this act may be in writing or in print, or partly in writing and partly in print, and may be sent by post, and if sent by post shall be deemed to have been received at the time when the letter containing the same would have been delivered in the ordinary course of the post; and in proving such sending it shall be sufficient to prove that the letter containing the notice was prepaid and properly addressed and put into a post-office.

Notices how
to be given.

36. In the application of this act to Scotland—

Application
of Act to
Scotland.

(1.) The term "attending on subpoena before a Court of Record" means attending on citation the Court of Justiciary:

(2.) The Queen's and Lord Treasurer's Remembrancer shall perform the duties of a master of one of the superior courts under this act.

Temporary Provisions.

37. This act shall continue in force for five years next after the passing of this act, and thenceforth until the end of the then next session of Parliament, but the expiration of this act shall not affect the validity of anything done before such expiration.

[Extended
to 31st
December,
1886, by
47 & 48 VICT.
c. 63, s. 2.]

RAILWAY REGULATIONS, 1873.

36 & 37 Vict. Cap. 76. An Act to make further Provision for the Regulation of Railways.
[5th August, 1873.]

WHEREAS it is expedient to make further provision with respect to the regulation of railways :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows :

Definition
of Railway
Regulation
Acts.

1. The acts hereinafter mentioned may be cited for all purposes by the short titles following ; that is to say,

3 & 4 Vict.
c. 97.

The act of the session of the third and fourth years of the reign of her present Majesty, chapter ninety-seven, and intituled "An Act for regulating Railways," by the short title of "The Railway Regulation Act, 1840" :

5 & 6 Vict.
c. 55.

The act of the session of the fifth and sixth years of the reign of her present Majesty, chapter fifty-five, and intituled "An Act for the better regulation of railways and for the conveyance of troops," by the short title of "The Railway Regulation Act, 1842" :

This act by the short title of "The Railway Regulation Act (Returns of Signal Arrangements, Working, &c.) 1873" :

This act shall, so far as is consistent with the tenor thereof, be construed as one with the above-mentioned acts, and the said acts, together with this act, may be cited for all purposes as "The Railway Regulation Acts, 1840, 1842, 1873."

Definition of
Summary
Jurisdiction
Acts.

2. The expression "Summary Jurisdiction Acts" means—

In England, the act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and orders," and any act passed or to be passed amending the same :

36 & 37 Vict. c. 76. i.

In Scotland, "The Summary Procedure Act, 1864," 36 & 37 VICT. CAP. 76
and any act passed or to be passed amending the same :

In Ireland, "The Petty Sessions (Ireland) Act, 1851," and in Dublin the acts regulating the powers of justices of the peace, or of the police of Dublin metropolis, and any act passed or to be passed amending the said acts or any of them.

3. The Lords of the Committee of her Majesty's Privy Council appointed for Trade and Foreign Plantations are in this act referred to as "the Board of Trade." Definition of Board of Trade.

4. Every railway company shall, on or before the fifteenth day of February in every year, make a full and true return to the Board of Trade of the matters and in the forms specified in the first and second schedules annexed to this act, and the notes annexed to such schedules shall be deemed to be part of this act in the same manner as if they were enactments contained in the body thereof. Returns to be made to the Board of Trade by railway companies.

If any railway company makes default in making any return required by this act, it shall incur a penalty not exceeding five pounds for every day during which such default continues, such penalty to be recovered in manner provided by the "Summary Jurisdiction Acts," upon the complaint of any officer of the Board of Trade : Provided that the Board of Trade may in any case dispense with such return or any part thereof where they deem the same inapplicable.

5. Every coroner in England and Ireland within seven days after holding an inquest on the body of any person who is proved to have been killed on a railway, or to have died in consequence of injuries received on a railway, and in Scotland every procurator fiscal within the like time and in like cases, shall make to one of her Majesty's principal Secretaries of State, in such form as he may require, a return of the death, and the cause thereof. Returns by coroners.

6. Where any inspecting officer of the Board of Trade has reported to that board, in pursuance of the sixth section of "The Railway Regulation Act, 1842," that the opening of any railway or portion of a railway would in his opinion be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, and the Board of Trade have postponed the opening of such railway or portion of a railway in pursuance of such section for Amendment of sect. 6 of the Railway Regulation Act, 1842.
36 & 37 VICT. c. 76. ii.

36 & 37 VICT.
CAP. 76.
the period of one calendar month, it shall be lawful for the said board, if it thinks fit, unless in the meantime it is stated by the company to whom such railway belongs that all requisitions made by such inspecting officer upon his inspection of such railway or portion of a railway, as being necessary for the safety of the public, have been complied with, to direct the postponement of the opening of such railway or portion of a railway for a further period not exceeding one month without going to the expense of directing a further inspection to be made by the officer, and so on from time to time until the requisitions made by such officer have been complied with, or the said board is otherwise satisfied that such railway or portion of a railway can be opened with safety to the public.

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

FIRST SCHEDULE.

Name of Railway.	Number of Cases in which any Passenger Line is connected with or crossed on the level by :—				Number of Cases in which the usual requirements of the Inspecting Officers of the Board of Trade have or have not been complied with in the following respects :—						Remarks.	
	Any other Passenger Line.	Any Goods Line.	Any Siding.	Any Cross-over Road.	Concentration of Signal and Point Levers.		Interlocking of Signal and Point Levers.		Addition of Safety Points in case of Goods Lines & Sidings.			
					Have.	Have not.	Have.	Have not.	Have.	Have not.		
Main Line.	a	b	c	d	e	f	g	h	i	k	l	
Branches.												

NOTES.—a and b.—A single or double junction, or a single or double crossing on the level, to be considered as one case. On single lines of Railway each connection with a portion of double line at loops, terminal stations, or junctions to be stated. c.—Each individual instance of a siding joining a passenger line, whether at a station or elsewhere, not included in a or b, and each instance of connection between such siding and such passenger line, to be enumerated. d.—Each cross-over road, not included under c, connecting any two lines, to be considered one case. e, & f.—These numbers to represent the proportion of connections or crossings enumerated under a, b, c, d, the levers for working signals or points in connection with which have or have not been concentrated. g, & h.—These numbers to represent the proportions of connections or crossings enumerated under a, b, c, d, the levers for working signals and points in connection with which have or have not been interlocked. i, & l.—All cases in which safety points have or have not been applied to goods lines or goods sidings joining passenger lines, and enumerated under b and c, to be here stated.

BOARD OF TRADE ARBITRATIONS, INQUIRIES, &c., 1874.

37 & 38 Vict. Cap. 40. An Act to Amend the Powers of the Board of Trade with respect to inquiries, arbitrations, appointments, and other matters under Special Acts, and to Amend the Regulation of Railways Act, 1873, so far as regards the reference of differences to the Railway Commissioners in lieu of Arbitrators.

[30th July, 1874.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as "The Board of Trade Short title. Arbitrations, &c. Act, 1874."

PART I.

Board of Trade Inquiries, &c.

2. Where, under the provisions of any special act, Power of Board of Trade as to inquiry. passed either before or after the passing of this act, the board of trade are required or authorised to sanction, approve, confirm, or determine any appointment, matter, or thing, or to make any order or to do any other act or thing for the purposes of such special act, the board of trade may make such inquiry as they may think necessary for the purpose of enabling them to comply with such requisition or exercise such authority.

Where an inquiry is held by the board of trade for the purposes of this section, or in pursuance of any general or special act passed either before or after the passing of this act, directing or authorising them to hold any inquiry, the board of trade may hold such inquiry by any person or persons duly authorised in that behalf by an order of the board of trade, and such inquiry if so held shall be deemed to be duly held.

3. Where application is made in pursuance of any special act, Expenses connected with arbit. passed either before or after the passing of
37 & 38 VICT. c. 40. i.

37 & 38 VICT.
CAP. 40.

tration,
sanction, &c.

this act, to the board of trade to be arbitrators, or to appoint any arbitrator, referee, engineer, or other person, or to hold any inquiry, or to sanction, approve, confirm, or determine, any appointment, matter, or thing, or to make any order, or to do any other act or thing for the purposes of such special act, all expenses incurred by the board of trade in relation to such application and the proceedings consequent thereon, shall, to such amount as the board of trade may certify by their order to be due, be defrayed by the parties to such application, and (subject to any provision contained in the said special act) shall be defrayed by such of the parties as the board of trade may by order direct, or if so directed by an order of the board of trade shall be paid as costs of the arbitration or reference.

The board of trade may, if they think fit, on or at any time after the making of the application, by order require the parties to the application, or any of them, to pay to the board of trade such sum as the board of trade think requisite for or on account of those expenses, or to give security to the satisfaction of the board of trade for the payment of those expenses on demand, and if such payment or security is not made or given may refuse to act in pursuance of the application.

All expenses directed by an order of the board of trade or an award in pursuance of this section to be paid may be recovered in any court of competent jurisdiction as a debt, and if payable to the board of trade, as a debt to the Crown, and an order of the board of trade shall be conclusive evidence of the amount of such expenses.

Meaning of
"special
Act."

4. In this part of this act the term "special act" means a local or local and personal act, or an act of a local and personal nature, and includes a provisional order of the board of trade confirmed by act of Parliament and a certificate granted by the board of trade under the Railways Construction Facilities Act, 1864.

Order of
Board of
Trade may
be in
writing.

An order of the board of trade for the purposes of this part of this act, or of any such special act as is referred to in this part of this act, may be made by writing under the hand of the president or of one of the secretaries of the board.

Repeal of
35 & 36 Vict.
c. 18.
[Repealed
by 46 & 47
Vict. c. 39,
s. 1.]

5. *The act of the session of the thirty-fifth and thirty-sixth years of the reign of her present Majesty, chapter eighteen, intituled "An act for regulating Inquiries by the Board of Trade," is hereby repealed*

37 & 38 VICT. c. 40. ii.

without prejudice to anything done or suffered under that act. 37 & 38 VICT. CAP. 40.

PART II.

Reference to Railway Commissioners.

6. Where any difference to which a railway company or canal company is a party is required or authorised, under the provisions of any general or special act passed either before or after the passing of this act, to be referred to the arbitration of or to be determined or settled by the board of trade, or some person or persons appointed by the board of trade, the board of trade may, if they think fit, by order in writing under the hand of the president or one of the secretaries of the board, refer the matter for the decision of the railway commissioners, and appoint them arbitrators or umpire, as the case may be, and thereupon the commissioners for the time being shall have the same powers as if the matter had been referred to their decision in pursuance of the Regulation of Railways Act, 1873, and also any further powers which the board of trade, or an arbitrator or arbitrators, or umpire, appointed by the board of trade, would have had for the purpose of the arbitration, if the difference had not been referred to the commissioners: Provided always, that this section shall not apply to any case in which application is made to the board of trade for the appointment of an umpire under the twenty-eighth section of "The Lands Clauses Consolidation Act, 1845."

Power of Board of Trade to appoint Railway Commissioners to be arbitrators or umpire.

7. Where any difference is referred for the decision of the commissioners in pursuance of the Regulation of Railways Act, 1873, as amended by this part of this act, the commissioners shall have the same power by their decision of rescinding, varying, or adding to any award or other decision previously made by any arbitrator or arbitrators (including therein the board of trade) with reference to the same subject-matter as any arbitrator or arbitrators would have had if the difference had been referred to him or them.

Declaration as to powers of commissioners in arbitrations.

8. This part of this act shall be construed as one with the Regulation of Railways Act, 1873, and shall continue in force for the same time as that act and no longer, but the expiration of this part of this act shall not affect the validity of anything done before such expiration.

Duration &c. of part of Act, and construction with 36 & 37 VICT. c. 48. [Extended to 31st December, 1884, by 48 & 47 VICT. c. 40, s. 2.]

The Regulation of Railways Act, 1873, together with this part of this act, may be cited as "The Regulation of Railways Acts, 1873 and 1874."

EXPLOSIVE SUBSTANCES ACT, 1875.

38 Vict. Cap. 17. An Act to amend the law with respect to manufacturing, keeping, selling, carrying or importing gunpowder, nitro-glycerine and other explosive substances.

[14th June, 1875.]

Conveyance of Gunpowder.

33. The following general rules shall be observed with respect to the packing of gunpowder for conveyance :

General rules as to packing of gunpowder for conveyance.

1. The gunpowder, if not exceeding five pounds in amount, shall be contained in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping ; and
2. The gunpowder, if exceeding five pounds in amount, shall be contained either in a single package or a double package. A single package shall be a box, barrel, or case of such strength, construction, and character as may be for the time being approved by the Government inspector as being of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape. If the gunpowder is packed in a double package the inner package shall be a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and the outer package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape ; and
3. The interior of every package, whether single or double, shall be kept free from grit and otherwise clean ; and

38 VICT.
CAP. 17.

4. Every package, whether single or double, when actually used for the package of gunpowder, shall not be used for any other purpose; and
5. There shall not be any iron or steel in the construction of any such single package or inner or outer package, unless the same is effectually covered with tin, zinc, or other material; and
6. The amount of gunpowder in any single package, or if there is a double package in any one outer package, shall not exceed one hundred pounds, except with the consent of and under conditions approved by a Government inspector; and
7. On the outermost package there shall be affixed the word "gunpowder" in conspicuous characters by means of a brand or securely attached label or other mark.

In the event of any breach (by any act or default) of any general rule in this section, the gunpowder in respect of which the breach is committed may be forfeited, and the person guilty of such breach shall be liable to a penalty not exceeding twenty pounds.

The Secretary of State may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section, and the rules so made by the Secretary of State shall have the same effect as if they were enacted in this section.

Byelaws by
railway
and canal
company
as to con-
veyance,
loading, &c.
of gun-
powder.

35. Every railway company and every canal company over whose railway or canal any gunpowder is carried, or intended to be carried, shall, with the sanction of the Board of Trade, make byelaws for regulating the conveyance, loading, and unloading of such gunpowder on the railway or canal of the company making the byelaws, and in particular for declaring and regulating all or any of the following matters in the case of such railway or canal; that is to say,

1. Determining the notice to be given of the intention to send gunpowder for conveyance as merchandise on the railway or canal; and
2. Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder for conveyance and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and

3. Regulating the description and construction of carriages, ships, or boats to be used in the conveyance of gunpowder ; and
4. Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger trains, carriages, ships, or boats ; and
5. Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time, or in one carriage, ship, or boat ; and
6. Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages, ships, and boats used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading and unloading ; and
7. Providing for the publication and supply of copies of the byelaws ; and
8. Enforcing the observance of this Act both by their servants and agents and also by other persons when on the canal or railway of such company ; and
9. Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Such byelaws, when confirmed by the Board of Trade, shall apply to the railway, canal, agents, and servants of the company making the same, and to the persons using such railway or canal, or the premises connected therewith and occupied by or under the control of such company.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage, ship, or boat or train of carriages, ships, or boats in respect of which, the breach of byelaw has taken place.

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CAP. 17.

Byelaws as
to wharves
in which
gunpowder
is loaded or
unloaded.

36. Where by reason of a wharf being a public wharf or otherwise, there is no occupier thereof, or the occupier thereof is unknown, the Secretary of State may make byelaws with respect to such wharf in like manner as if the occupier had failed to comply with his requisition: Provided that where such wharf abuts on any harbour, canal, or railway, the harbour authority or canal or railway company shall have the same power, and, if so required by the Secretary of State, shall be under the same obligation to make byelaws under this section for such wharf as if they were the occupiers thereof.

Confirma-
tion and
publication
of byelaws.

38. Any recommendation to Her Majesty in Council, any general rules with respect to packing, and any byelaws which is or are proposed to be made under this Act by a Secretary of State or the Board of Trade shall, before being so made, be published in such manner as the Secretary of State or the Board of Trade, as the case may be, may direct as being in his or their opinion sufficient for giving information thereof to all local authorities, corporations and persons interested.

The byelaws framed by any railway company, canal company, or harbour authority under this Act shall, before being sanctioned by the Board of Trade, be published in such manner as may be directed by the Board of Trade, with a notice of the intention of such company or authority to apply for the confirmation thereof, and may be sanctioned by the Board of Trade with or without any omission, addition, or alteration, or may be disallowed.

Every such byelaw may be from time to time added to, altered, or rescinded by a byelaw made in like manner and with the like sanction as the original byelaw.

The Secretary of State or the Board of Trade, as the case may be, shall receive and consider any objections or suggestions made by any local authority, corporation, or persons interested with respect to any recommendation, general rules, or byelaws published in pursuance of this section, and may, if it seem fit, amend such recommendation, general rules, or byelaws with a view of meeting such objections or suggestions without again publishing the same.

Keeping
without a
license and
conveyance
of per-
cussion
caps, &c.

50. A person shall not be required by this Act to take out a license or to register any premises for the keeping of percussion caps, or safety-fuzes for blasting, or fog-signals kept by any railway company for use on the railway of such company, or any prescribed explosive.

38 VICT. C. 17. iv.

It shall not be obligatory on any harbour authority, railway company, canal company, or occupier of a wharf, to make any byelaws with respect to the conveyance, loading, or unloading of any explosives to which this section applies.

38 VICT.
CAP. 17.

It shall be lawful for Her Majesty, by Order in Council, to exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act, or to declare that a license shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that byelaws shall be made with respect to the loading, unloading and conveyance thereof.

58. The Board of Trade may from time to time, by order, direct—

Inspection
by railway
inspectors
or
inspectors
of Board of
Trade.

(a.) Any person acting under the Board as an inspector of railways to inquire into the observance of this Act by any railway company or canal company, and generally to act with respect to any railway or canal as an inspector under this Act; or

(b.) Any person acting under the Board as an inspector or otherwise for the purposes of the Merchant Shipping Act, 1854, or the Acts amending the same, to inquire into the observance of this Act in any harbour or in the case of any ship, and generally to act in such harbour and with respect to ships as an inspector under this Act.

The Board of Trade may revoke any such order; and each such inspector shall, while such order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed inspector, and also the powers and authorities of a government inspector under this Act.

78. Any person who is found committing any act for which he is liable to a penalty under this Act, and which tends to cause explosion or fire in or about any factory, magazine, store, railway, canal, harbour, or wharf, or any carriage, ship, or boat, may be apprehended without a warrant by a constable, or an officer of the local authority, or by the occupier of or the agent or servant of or other person authorised by the occupier of such factory, magazine, store, or wharf, or by any agent or servant of or other person authorised by the railway or canal company or harbour authority, and be removed from the place at which he is arrested,

Arrest
without
warrant of
persons
committing
dangerous
offences.

38 Vict.
CAP. 17.

Imprison-
ment for
wilful act or
neglect
endanger-
ing life or
limb.

and conveyed as soon as conveniently may be before a court of summary jurisdiction.

79. Where any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which, in the opinion of the court that tries the case, was reasonably calculated to endanger the safety of or to cause serious personal injury to any of the public or the persons employed in or about any factory, magazine, store, or registered premises, or any harbour, railway, canal, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the person act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months.

General
definitions.

108. The expression "railway company" means any person or body of persons, corporate or unincorporate, being the owner or lessee or owners or lessees of or working any railway worked by steam or otherwise than by animal power in the United Kingdom, constructed or carried on under the powers of any Act of Parliament and used for public traffic, and every building, station, wharf, dock, and place which belong to or are under the control of a railway company, are, in the other portions of this Act, included in the expression "railway."

RAILWAY COMPANIES, 1875.

38 & 39 Vict. cap. 31. An Act to make perpetual ^[Repealed by 46 & 47 Vict. c. 39, s. 1.]
 Section Four of the Railway Companies Act, 1867, and Section Four of the Railway Companies (Scotland) Act, 1867. [29th June, 1875.]

Whereas by section four of the Railway Companies Act, 1867, restrictions were placed on the liability of the rolling stock and plant of railway companies in England and Ireland to be taken in execution at law or in equity at any time after the passing of that Act and before the first day of September one thousand eight hundred and sixty-eight: ^{30 & 31 Vict. c. 127.}

And whereas by section four of the Railway Companies (Scotland) Act, 1867, restrictions were placed on the liability of rolling stock and plant of railway companies in Scotland to be attached by diligence at any time after the passing of that Act and before the first day of September one thousand eight hundred and sixty-eight: ^{30 & 31 Vict. c. 128.}

And whereas by the Railway Companies Act, 1868, it was enacted that the said sections should be read and have effect as if the first day of September one thousand eight hundred and seventy were therein mentioned instead of the first day of September one thousand eight hundred and sixty-eight: ^{31 & 32 Vict. c. 79.}

And whereas the said sections have since been continued until the thirty-first day of December, one thousand eight hundred and seventy-five, and it is expedient that the same should be made perpetual:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. *The Railway Companies Act, 1868, and also the words "and before the first day of September one thousand eight hundred and sixty-eight" in section four of the Railway Companies Act, 1867, and in section four of the Railway Companies (Scotland) Act, 1867, are hereby repealed, and the said sections shall be perpetual.* ^{30 & 31 Vict. c. 127, s. 4, and c. 128, s. 4, made perpetual.}

38 & 39 VICT. C. 31. i.

PUBLIC HEALTH ACT, 1875.

38 & 39 Vict. cap. 55. An Act for consolidating and amending the Acts relating to Public Health in England. [11th August, 1875.]

Power of urban authority to construct or adopt public bridges, &c. over or under railways, &c.

147. Any urban authority may agree with the proprietors of any canal, railway or tramway to adopt and maintain any existing or projected bridge, viaduct or arch within their district, over or under any such canal, railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to construct any such bridge, viaduct or arch at the expense of such proprietors; they may also, with the consent of two-thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge, viaduct or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.

Power to make bye-laws respecting new buildings, &c.

157. The provisions of this section (*as to power to make bye-laws respecting new buildings, &c.*) and of the two last preceding sections (*as to power to regulate line of buildings; and buildings not to be brought forward.*) shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

Assessment &c. of general district rate.

211. With respect to the assessment and levying of general district rates under this Act, the following provisions shall have effect; namely:—

- (1.) General district rates shall be made and levied on the occupier of all kinds of property for the time being by law assessable to any rate for the relief of the poor, and shall be assessed on the full net annual value of such property, ascertained by the valuation list for the time being in force, or, if there is none, by the rate for the relief of the poor made next before the making of the assessment under this Act, subject to the following exceptions, regulations and conditions; (namely,)

- (a.) The owner, instead of the occupier, may at the option of the urban authority be rated in cases—

Where the rateable value of any premises liable to assessment

under this Act does not exceed the sum of ten pounds ; or

38 & 39 VICT.
CAP. 55.

Where any premises so liable are let to weekly or monthly tenants ; or

Where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly ;

Provided that in cases where the owner is rated instead of the occupier he shall be assessed on such reduced estimate as the urban authority deem reasonable of the net annual value, not being less than two-thirds nor more than four-fifths of the net annual value ; and where such reduced estimate is in respect of tenements whether occupied or unoccupied, then such assessment may be made on one half of the amount at which such tenements would be liable to be rated if the same were occupied and the rate were levied on the occupiers :

(b.) The owner of any tithes, or any tithe commutation rentcharge, or the occupier of any land used as arable meadow or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same in the proportion of one-fourth part only of such net annual value thereof.

230. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to

Mode of
raising con-
tributions
in rural
district.

38 & 39 VICT.
CAP. 55.

issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish, by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception; (namely,)

That the owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable, meadow or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one-fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one-fourth part only of the rate in the pound payable in respect of houses and other property.

STATUTE LAW REVISION, 1875.

38 & 39 Vict. cap. 66. An Act for further promoting the Revision of the Statute Law by repealing certain enactments which have ceased to be in force or have become unnecessary.

[11th August, 1875.]

1. The enactments described in the Schedule to this Act are hereby repealed, subject to the exceptions and qualifications in the schedule mentioned.

Enactments in schedule repealed.

SCHEDULE.

8 & 9 Vict. c. 16, *in part.* An Act for consolidating in one Act certain provisions usually inserted in Acts with respect to the constitution of companies incorporated for carrying on undertakings of a public nature, *in part; namely:* Section 152, from "or if the place" to end of that section; Section 164, from "in case" to "Law"; Section 165.

8 & 9 Vict. c. 18, *in part.* An Act for consolidating in one Act certain provisions usually inserted in Acts authorising the taking of lands for undertakings of a public nature, *in part; namely:* Section 139, from "or if the place" to end of that section; Section 153.

8 & 9 Vict. c. 20, *in part.* An Act for consolidating in one Act certain provisions usually inserted in Acts authorising the making of railways, *in part; namely:* Section 150, from "or if the place" to the end of that section; Sections 161 and 165.

9 & 10 Vict. c. 57, *in part.* An Act for regulating the gauge of railways, *in part; namely:* Section 9.

11 & 12 Vict. c. 3. An Act to give further time for making certain railways.

13 & 14 Vict. c. 83, *in part.* An Act to facilitate the abandonment of railways and the dissolution of
38 & 39 Vict. c. 66. i.

38 & 39 VICT.
CAP. 68.

railway companies in certain cases, *in part; namely:* Section 35, from "any action or suit or other" to "suit nor"; Section 40.

19 & 20 Vict. c. 72. An Act to continue "The Railways (Ireland) Act, 1851."

21 & 22 Vict. c. 34. An Act to continue "The Railways (Ireland) Act, 1851."

21 & 22 Vict. c. 75. An Act to amend the law relating to cheap trains, and to restrain the exercise of certain powers by canal companies being also railway companies, *in part; namely:* Section 4.

23 & 24 Vict. c. 41. An Act to make perpetual an Act of the twenty-first and twenty-second years of Her present Majesty, to amend the law relating to cheap trains, and to restrain the exercise of certain powers by canal companies being also railway companies.

26 & 27 Vict. c. 118, *in part.* An Act for consolidating in one Act certain provisions frequently inserted in Acts relating to the constitution and management of companies incorporated for carrying on undertakings of a public nature, *in part; namely:* Section 21, from "but so" to end of that section; Section 22, from "not exceeding the rate prescribed" to "per annum."

29 & 30 Vict. c. 95, *in part.* An Act to enable the Public Works Loan Commissioners to make temporary advances to railway companies in Ireland, *in part; namely:* Section 4, Sub-section 1, Sub-section 3, from "at a time" to "date of advance," and Sub-section 4.

29 & 30 Vict. c. 108, *in part.* An Act to amend the law relating to securities issued by railway companies, *in part; namely:* Section 4, from "and the first" to "sixty-six," and the words, "including the First)."

38 & 39 VICT. c. 66. ii

- 30 & 31 Vict., c. 127, *in part*. An Act to amend the law relating to railway companies, *in part*; *namely*: Section 37. 38 & 39 Vict. c. 66.
-
- 30 & 31 Vict. c. 138. An Act to authorise the extension of the period for repayment of advances made under the Railway Companies (Ireland) Temporary Advances Act, 1866.
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- 31 & 32 Vict. c. 18. An Act to give further time for making certain railways.
-
- 31 & 32 Vict. c. 110, *in part*. An Act to enable Her Majesty's Postmaster-General to acquire, work and maintain electric telegraphs, *in part*; *namely*: Section 24.
-
- 31 & 32 Vict. c. 119, *in part*. An Act to amend the law relating to railways, *in part*; *namely*: Section 37, from "and the provisions" to end of that section; Sections 46 and 47; the second schedule.
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TELEGRAPHS (MONEY) ACT, 1876.

39 Vict. cap 5. An Act for enabling a further sum to be raised for the purposes of the Telegraph Acts, 1868 to 1870.

[27th March, 1876.]

31 & 32 Vict.
c. 110.
33 & 34 Vict.
c. 73.
33 & 34 Vict.
c. 88.

WHEREAS divers funds have been authorised to be raised for the purposes of the Telegraph Acts, 1868 to 1870, and with a view to the payment under those Acts of compensation to railway companies in respect of telegraphs it is expedient to authorise the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) to raise further funds for the purposes of those Acts :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Power for
the
Treasury to
raise a
further sum
of £500,000
for the
purposes of
the Tele-
graph Acts.

1. The Treasury may, in addition to any sum previously authorised to be raised by them, raise for the purpose of the Telegraph Acts, 1868 to 1870, any sum or sums of money not exceeding in the whole five hundred thousand pounds sterling, by the creation of three pounds per cent. per annum permanent annuities.

Such annuities shall be charged upon the Consolidated Fund, and shall be paid out of the permanent annual charge for the National Debt.

The annuities shall be created by warrant of the Treasury to the Governor and Company of the Bank of England, directing them to inscribe in their books the amount of such annuities in the names directed by the warrant.

The said annuities shall in manner directed by the warrant be consolidated in the said books with annuities at the same rate of interest and payable at the same date, and shall be transferable in the said books in like manner as the annuities with which they are consolidated, and shall be subject to the enactments relating to those annuities so far as is consistent with the tenor of those enactments.

Application
of moneys
raised.

2. All moneys raised in pursuance of this Act shall be placed to the account of the Paymaster General at the Bank of England, and shall be issued from time to time under regulations to be made by the Treasury, and to be laid by them before Parliament ; such moneys shall not be applied for the purpose of the extension

of telegraphs, but shall be applied only for the other purposes of the Telegraph Acts, 1868 to 1870.

3. Accounts of all expenditure out of moneys raised in pursuance of this Act shall be prepared by the Postmaster General in the form approved by the Treasury, and be transmitted to the Comptroller and Auditor General, to be examined by him as if they were appropriation accounts, in manner directed by the Exchequer and Audit Departments Act, 1866.

39 VICT.
CAP. 5.

Accounts of
expenditure

29 & 30 Vict.
c. 39.

4. Whereas by section twenty of the Telegraph Act, 1869, it is enacted that "there shall be laid before both Houses of Parliament on or before the thirty-first day of March in every year an account showing the gross amount received during the previous year ending the thirty-first day of December, the amount of expenses incurred during the year," and the other particulars in the said section mentioned.

Amend-
ment of 32
& 33 Vict. c
73, s. 20, as
to account.

And whereas it is expedient to amend the said enactment: Be it therefore enacted, That—

There shall be laid before both Houses of Parliament, on or before the thirtieth day of November in every year, if Parliament be then sitting, or if not within one week after the then next meeting of Parliament, an account showing the gross amount received and expended on account of the telegraph service during the year ending on the previous thirty-first day of March, and the balance, if any, of the receipts over the expenditure.

There shall be added to such account a statement of the amount expended during the said year on account of the annual charge for the securities created for the purpose of the Telegraph Acts, 1868 to 1870, and any Acts amending the same, and of the surplus, if any, which, after deducting from the said balance the amount of such annual charge, remains as a sinking fund for the redemption of the said securities, and a statement of the mode of application of such surplus.

The surplus shall be issued out of the Consolidated Fund, or the growing produce thereof, to the Commissioners for the reduction of the National Debt, to be applied in the reduction of debt to an amount equivalent to that created by the said securities.

The first account under this section shall show the gross amount received and expended during the fifteen months ending on the thirty-first day of March one thousand eight hundred and seventy-six, and section twenty of the Telegraph Act, 1869, is hereby repealed.

5. This Act may be cited for all purposes as the Telegraph (Money) Act, 1876; and this Act and the Telegraph Acts, 1868 to 1870, may be cited together as the Telegraph Acts, 1868 to 1876.

PUBLIC WORKS LOAN ACT, 1876.

39 & 40 Vict. cap. 31. An Act to grant money for the purpose of Loans by the Public Works Loan Commissioners, and to amend the Public Works Loans Act, 1875.

[24th July, 1876.]

Amendment to Public Works Loans Act, 1875.

Application of section fifty-six of 39 & 39 Vict. c. 89. to loan, Portpatrick, and Belfast and County Down Railways, under 31 & 32 Vict. c. 81.

4. Whereas by section fifty-six of the Public Works Loans Act, 1875, it was provided that that Act should apply only to loans granted after the commencement thereof, and that the Loan Commissioners should have the same power of making further advances on any mortgage made before the commencement of that Act, and otherwise as therein mentioned, as they would have had under the Acts repealed by that Act if they had not been repealed, but such advances were to be made out of moneys issued under that Act :

And whereas by a special Act, namely, the Act of the session of the thirty-first and thirty-second years of the reign of Her present Majesty, chapter eighty-one, intituled "An Act to authorise Loans of Public Money to the Portpatrick and the Belfast and County Down Railway Companies, and a Payment to the Portpatrick Company in consequence of the abandonment of the communication between Donaghadee and Portpatrick," after reciting that the Portpatrick Railway Company and the Belfast and County Down Railway Company had, under the circumstances therein mentioned, just and fair claims to the consideration of Parliament, and for the adjustment thereof it had been agreed that such claims should be settled and arranged as hereinafter provided, it was enacted that the said railway companies might borrow on mortgage, and the Public Works Loan Commissioners might advance, the sums therein mentioned, on the security and at the rate and for the period therein mentioned :

And whereas the larger portion of the said sums have been advanced to the said companies in pursuance of the said special Act, but doubts have arisen whether the residue of the said sums can be advanced by the Commissioners as further advances under section fifty-six of the Public Works Loans Act, 1875, and it is

39 & 40 Vict. c. 31. i.

expedient, with a view to the complete execution of the settlement effected by the said special Act, to authorise such advances : Be it therefore enacted as follows :

39 & 40 VICT.
CAP. 31.

The Public Works Loan Commissioners shall have the same power of making further advances to the said Railway Companies in pursuance of the said special Act as they would have had under that Act if the Public Works Loans Act, 1875, had not been passed, but such advances shall be made out of money issued under the Public Works Loans Act, 1875.

COMPANIES ACTS AMENDMENT ACT, 1877.

40 & 41 Vict. cap. 26. An Act to amend the Companies Acts of 1862 and 1867.

[23rd July, 1877.]

30 & 31 Vict.
c. 131.

WHEREAS doubts have been entertained whether the power given by the Companies Act, 1867, to a company of reducing its capital extends to paid-up capital, and it is expedient to remove such doubts :

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited for all purposes as the Companies Act, 1877.

Construction of Act.
25 & 26 Vict.
c. 89,
30 & 31 Vict.
c. 131.

2. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862 and 1867, and the said Acts and this Act may be referred to as "The Companies Acts, 1862, 1867, and 1877."

Construction of "capital" and powers to reduce capital contained in 30 & 31 Vict. c. 131.

3. The word "capital" as used in the Companies Act, 1867, shall include paid-up capital ; and the power to reduce capital conferred by that Act shall include a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the company ; and paid-up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the company, and to the extent to which such liability is not extinguished or reduced it shall be deemed to be preserved notwithstanding anything contained in the Companies Act, 1867.

Application of provisions of 30 & 31 Vict. c. 131.

4. The provisions of the Companies Act, 1867, as amended by this Act, shall apply to any company reducing its capital in pursuance of this Act and of the Companies Act, 1867, as amended by this Act :

Provided that where the reduction of the capital of the company does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital,

(1.) The creditors of the company shall not, unless the Court otherwise direct, be entitled to object or required to consent to the reduction ; and

40 & 41 Vict. c. 26. i.

- (2.) It shall not be necessary, before the presentation of the petition for confirming the reduction, to add, and the Court may, if it thinks it expedient so to do, dispense altogether with the addition of the words "and reduced," as mentioned in the Companies Act, 1867. 40 & 41 Vict.
CAP. 28.
30 & 31 Vict.
c. 131.

In any case that the Court thinks fit so to do, it may require the company to publish in such manner as it thinks fit the reasons for the reduction of its capital, or such other information in regard to the reduction of its capital as the Court may think expedient, with a view to give proper information to the public in relation to the reduction of its capital by a company, and, if the Court thinks fit, the causes which led to such reduction.

The minute required to be registered in the case of reduction of capital shall show, in addition to the other particulars required by law, the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share.

5. Any company limited by shares may so far modify the conditions contained in its memorandum of association, if authorised so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of the passing of such resolution, have not been taken or agreed to be taken by any person; and the provisions of "The Companies Act, 1867," shall not apply to any reduction of capital made in pursuance of this section. Power to reduce capital by the cancellation of unissued shares.

6. And whereas it is expedient to make provision for the reception as legal evidence of certificates of incorporation other than the original certificates, and of certified copies of or extracts from any documents filed and registered under the Companies Acts, 1862 to 1877: Be it enacted, that any certificate of the incorporation of any company given by the registrar or by any assistant registrar for the time being shall be received in evidence as if it were the original certificate; and any copy of or extract from any of the documents or part of the documents kept and registered at any of the offices for the registration of joint stock companies in England, Scotland, or Ireland, if duly certified to be a true copy under the hand of the registrar or one of the assistant registrars for the time being, and whom it shall not be necessary to prove to be the registrar or assistant registrar, shall, in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as of equal validity with the original document. Reception of certified copies of documents as legal evidence.
25 & 26 Vict.
c. 89.
30 & 31 Vict.
c. 131.
40 & 41 Vict.
c. 26.

TELEGRAPHS (MONEY) ACT, 1877.

40 & 41 Vict. cap. 30. An Act for enabling a further Sum to be raised for the purposes of the Telegraph Acts, 1868 to 1870.

[2nd August, 1877.]

31 & 32 Vict. c. 110. WHEREAS divers funds have been authorised to be raised for the purposes of the Telegraph Acts, 1868 to 1870, and with a view to the payment under those Acts of compensation to railway companies in respect of telegraphs, it is expedient to authorise the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) to raise further funds for the purposes of those Acts :

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The Treasury at any time before the first day of April one thousand eight hundred and seventy-nine may, in addition to any sum previously authorised to be raised by them, raise for the purposes of the Telegraph Acts, 1868 to 1870, any sum or sums of money not exceeding in the whole five hundred thousand pounds sterling, by the creation of three pounds per cent. per annum permanent annuities.

Power for the Treasury to raise before 1st April, 1879, a further sum of £500,000, for the purpose of the Telegraph Acts.

Such annuities shall be charged upon the Consolidated Fund, and shall be paid out of the permanent annual charge for the National Debt.

The annuities shall be created by warrant of the Treasury to the Governor and Company of the Bank of England, directing them to inscribe in their books the amount of such annuities in the names directed by the warrant.

The said annuities shall, in manner directed by the warrant, be consolidated in the said books with annuities at the same rate of interest and payable at the same date, and shall be transferable in the said books in like manner as the annuities with which they are consolidated, and shall be subject to the enactments relating to those annuities so far as is consistent with the tenor of those enactments.

40 & 41 VICT. c. 30. i.

2. All moneys raised in pursuance of this Act shall be placed to the account of the Paymaster General at the Bank of England, and shall be issued from time to time under regulations to be made by the Treasury, and to be laid by them before Parliament; such moneys shall not be applied for the purpose of the extension of telegraphs or for the payment of interest on any purchase-money or compensation payable in respect of telegraphs, unless such interest is not separately stated in any award or agreement, but shall be applied only for the other purposes of the Telegraph Acts, 1868 to 1870.

40 & 41 Vict.
CAP. 30.

Application
of moneys
raised.

3. Accounts of all expenditure out of moneys raised in pursuance of this Act shall be prepared by the Postmaster General in the form approved by the Treasury, and be transmitted to the Comptroller and Auditor General, to be examined by him as if they were appropriation accounts, in manner directed by the Exchequer and Audit Departments Act, 1866.

Accounts of
expendi-
ture.

4. This Act may be cited for all purposes as the Telegraphs (Money) Act, 1877; and this Act and the Telegraph Acts, 1868 to 1876, may be cited together as the Telegraph Acts, 1868 to 1877.

29 & 30 Vict.
c. 39.

Short titles.
31 & 32 Vict.
c. 110.

32 & 33 Vict.
c. 73.

33 & 34 Vict.
c. 88.

39 & 40 Vict.
c. 5.

RAILWAY RETURNS (CONTINUOUS BRAKES)
ACT, 1878.

41 Vict. cap. 20. An Act to provide for returns respecting Continuous Brakes in use on Passenger Trains on Railways.

[17th June, 1878.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Railway Returns (Continuous Brakes) Act, 1878.

Short title.

Returns to be made twice a year by railway companies to Board of Trade respecting continuous brakes.

2. Every railway company shall twice in every year make to the Board of Trade returns respecting the use of continuous brakes on the passenger trains running on the railways worked by such company.

The returns shall contain the particulars and be in the form specified in the schedule to this Act, or shall contain such other particulars and be in such other form as the Board of Trade from time to time prescribe ; and the Board of Trade may in any case dispense with any part of the returns where they deem the same inapplicable.

The returns shall be made for the six months ending on the last day of December and the last day of June in every year, or on such other days as the Board of Trade from time to time direct, and shall be made within fourteen days after the expiration of each six months.

Every return shall be signed by the officer of the company responsible for the correctness of the return, and by the chairman or deputy chairman of the directors of the company, or where there are no directors by the individual or one of the individuals bound to make the return.

Any railway company who fail to comply with this section shall be liable on summary conviction before a court of summary jurisdiction to a fine not exceeding five pounds for every day during which the default continues.

Any person who makes or is privy to the making of a return under this Act which is to his knowledge false in any particular shall be liable on summary conviction before a court of summary jurisdiction to a fine not exceeding fifty pounds.

34 & 35 Vict.
c. 78.

Expressions in this Act have the same meaning as they have in the Regulation of Railways Act, 1871.

41 VICT. c. 20. i.

SCHEDULE.

FORMS OF RETURN.

Return for the Six Months ending on the 18 of the Amount and Description of Continuous Brake Power in use on the Passenger Trains running on the railways worked by the Railway Company.

Name of Railway Company.	Name and Description of Brake or Brakes adopted by the Company and in use on Passenger Trains on Lines worked by them.	(1.) Whether the Brakes are instantaneous in action and capable of being applied by engine driver and guards. (2.) Whether self-acting. (3.) Whether capable of being applied to every vehicle of a train. (4.) Whether in regular use in daily working. (5.) Whether the materials employed are of a durable character, easily maintained and kept in order.	Amount of Stock fitted with Continuous Brakes.			Amount of Stock not fitted with Continuous Brakes.			Amount of Stock fitted during the above Six Months.			Special rules under which the Continuous Brakes are worked.
			Number of Engines and Tenders used for Passenger Trains.	Passenger Carriages.	Other Vehicles used for Passenger Trains.	Number of Engines and Tenders used for Passenger Trains.	Carriages and other Vehicles used for Passenger Trains.	Number of Engines and Tenders used for Passenger Trains.	Carriages and other Vehicles used for Passenger Trains.			

RETURN for the Six Months ending on the
 day of 18 of all cases in which Con-
 tinuous Brakes have, from any cause, failed to act
 when required to be brought into action on any
 railway worked by the Railway
 Company.

Name of Railway Company.	Name or description of Brake which failed in being brought into use.	Date of Failure.	Particulars of circumstances relating to the causes of failure.

RETURN for the Six Months ending on the day
 of 18 of all cases in which Con-
 tinuous Brakes have not been used on any
 Passenger Train running on a railway worked by
 the Railway Company.

Name of Railway Company.	Name of railway worked by Company on which Passenger Train ran without Continuous Brake.	Number of Passenger Trains so run.

EXPIRING LAWS CONTINUANCE ACT, 1878.

41 & 42 Vict. Cap. 70. An Act to continue various
expiring Laws.

[16th August, 1878]

PART II.

1. Original Act.	2. How far con- tinued.	3. Amending Act.	4. Date to which con- tinued.
36 & 37 Vict. c. 48. Railway Com- missioners.	The whole Act.	37 & 38 Vict. c 40(part II.)	21st July, 1878, and end of the next Ses- sion.

CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

41 & 42 Vict. Cap. 74. An Act for making better provision respecting Contagious and Infectious Diseases of Cattle and other Animals ; and for other purposes.

[16th August, 1878.]

Interpre-
tation and
construc-
tion.

5. (1.) IN this Act—(inter alia) (xvii.) “Railway Company” includes a company or persons working a railway under lease or otherwise.

(3.) In the computation of time for purposes of this Act, a period reckoned by days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done.

Exceptional Powers for Transit, and other cases.

Privy
Council to
provide for
pleuro-
pneumonia
and foot-
and mouth
disease
during
transit, and
in other
cases.

27.—(1.) The Privy Council shall, as soon as may be after the passing of this Act, and thereafter from time to time, by general order make such further or other provision as they think necessary or expedient respecting the case of animals found to be affected with pleuro-pneumonia or foot-and-mouth disease—

(i.) While exposed for sale or exhibited in a market, fair, sale-yard, place of exhibition, or other place ; or

(ii.) While placed in a lair or other place before exposure for sale ; or

(iii.) While in transit or in course of being moved by land or by water ; or

(iv.) While in a foreign animals wharf or foreign animals quarantine station ; or

(v.) While being in a slaughter-house or place where animals are slaughtered or are kept with a view to slaughter ; or

(vi.) While being on common or uninclosed land ; or

(vii.) Generally, while being in a place not in the possession or occupation or under the control of the owner of the animals.

(2.) The Privy Council shall, by general orders under this section, from time to time make such provision as they think fit for the consequences under this Act of animals being so found in the circumstances aforesaid, as well with regard to the animals as with regard to the places where they are when so found and other places, and with regard to animals being or

41 & 42 VICT. c. 74. i.

having been in the same shed or stable, herd or flock, or in contact, with animals so found. 41 & 42 VICT. CAP. 74.

(3.) The Privy Council may from time to time, by special orders under this section relating to particular places, make such provision as they think fit for the consequences aforesaid.

(4.) Every order under this section shall have full effect notwithstanding any provision of this Act requiring the declaration of a place infected by pleuropneumonia or foot-and-mouth disease, or relating to any consequence thereof, or to any matter connected therewith, and notwithstanding any other provision whatsoever of this Act.

Disease and Movement, generally.

32. The Privy Council may from time to time make such general or special orders as they think fit, subject and according to the provisions of this Act, for the following purposes, or any of them :

Power for Privy Council to make orders for prevention or checking of disease and other purposes.

(x.) For prohibiting or regulating the sending or carrying of diseased or suspected animals, or of dung or other thing likely to spread disease, or the causing the same to be sent or carried, on railways, canals, rivers, or inland navigations, or in coasting vessels, or otherwise.

(xxi.) For prescribing and regulating the cleansing and disinfecting of vessels, vehicles, and pens and other places, used for the carrying of animals for hire or purposes connected therewith.

(xxii.) For prescribing modes of cleansing and disinfecting.

(xxv.) For protecting animals from unnecessary suffering during inland transit.

(xxvi.) For securing a proper supply of water and food to animals during any detention thereof.

(xxviii.) For prohibiting, absolutely or conditionally, the use, for the carrying of animals or for any purpose connected therewith, of a vessel, vehicle, or pen or other place in respect whereof, or of the use whereof, a penalty has been recovered from any person for an offence against this Act.

(xxxiv.) Generally, for the better execution of this Act, or for the purpose of in any manner preventing the spreading of disease.

33.—(1.) Every railway company shall make a provision, to the satisfaction of the Privy Council, of water and food, or either of them, at such stations as the Privy Council from time to time, by general or specific

Provision of water and food at railway stations.

41 & 42 VICT.
CAP. 74.

description, direct, for animals carried, or about to be or having been carried, on the railway of the company.

(2.) The water and food so provided, or either of them, shall be supplied to any such animal by the company carrying it, on the request of the consignor or of any person in charge thereof.

(3.) As regards water, if, in the case of any animal, such a request is not made, so that the animal remains without a supply of water for twenty-four consecutive hours, the consignor and the person in charge of the animal shall each be guilty of an offence against this Act; and it shall lie on the person charged to prove such a request and the time within which the animal had a supply of water.

(4.) But the Privy Council may from time to time, if they think fit, by order prescribe any other period, not less than twelve hours, instead of the period of twenty-four hours aforesaid, generally, or in respect of any particular kind of animals.

(5.) The company supplying water or food under this section may make in respect thereof such reasonable charges (if any) as the Privy Council by order approve, in addition to such charges as they are for the time being authorised to make in respect of the carriage of animals. The amount of those additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee thereof to the company, and shall be recoverable by the company from either of them, with costs, by proceedings in any court of competent jurisdiction. The company shall have a lien for the amount thereof on the animal in respect whereof the same accrued due, and on any other animal at any time consigned by or to the same consignor or consignee to be carried by the company.

Offences and Proceedings.

Fines for
offences.

60. If any person is guilty of an offence against this Act, he shall for every such offence be liable—

(i.) To a penalty not exceeding twenty pounds; or

(ii.) If the offence is committed with respect to more than four animals, to a penalty not exceeding five pounds for each animal; or

(iii.) Where the offence is committed in relation to carcases, fodder, litter, dung, or other thing (exclusive of animals), to a penalty not exceeding ten pounds in respect of every half ton in weight thereof after one half ton, in addition to the first penalty of not exceeding twenty pounds.

41 & 42 VICT. c. 74. iii.

61.—(1.) If any person, without lawful authority or excuse, proof whereof shall lie on him, does any of the following things, he shall be guilty of an offence against this Act.

41 & 42 VICT.
CAP. 74.

General
offences.

(i.) If he does anything in contravention of this Act, or of an Order of Council, or of a regulation of a local authority :

(ii.) If, where required by this Act to keep an animal separate as far as practicable, or to give notice of disease with all practicable speed, he fails to do so :

(iii.) If he fails to give, produce, observe, or do any notice, licence, rule, or thing which by this Act, or by an Order of Council, or by a regulation of a local authority, he is required to give, produce, observe or do :

(iv.) If he does anything which by this Act or an Order of Council is made or declared to be not lawful :

(v.) If he does or omits anything, the doing or omission whereof is declared by this Act or by an Order of Council to be an offence by him against this Act :

(vi.) If he refuses to an inspector or other officer, acting in execution of this Act, or of an Order of Council, or of a regulation of a local authority, admission to any land, building, place, vessel, pen, vehicle, or boat which the inspector or officer is entitled to enter or examine, or obstructs or impedes him in so entering or examining, or otherwise in any respect obstructs or impedes an inspector or constable or other officer in the execution of his duty, or assists in any such obstructing or impeding :

(vii.) If he throws or places, or causes or suffers to be thrown or placed, into or in any river, stream, canal, navigation, or other water, or into or in the sea within three miles of the shore, the carcase of an animal which has died of disease, or been slaughtered as diseased or suspected :

(2.) And on a further conviction within a period of twelve months for a second or subsequent offence against the same sub-section of this section, he shall be liable, in the discretion of the court of summary jurisdiction before which he is convicted, to be imprisoned for any term not exceeding one month, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

62.—(1.) If any person does any of the following things, he shall be guilty of an offence against this Act :

Imprisonment
instead of
fine for use
of expired
licences,
digging up

(i.) If, with intent to unlawfully evade this Act, or

41 & 42 VICT. C. 74. iv.

41 & 42 VICT.
CAP. 74.

of carcasses,
and other
specified
offences.

an Order of Council, or a regulation of a local authority, he does anything for which a licence is requisite under this Act, or an Order of Council, or a regulation of a local authority, without having obtained a licence :

(ii.) If, where such a licence is requisite, having obtained a licence, he, with the like intent, does the thing licensed after the licence has expired :

(iii.) If he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he did not know of that incompleteness or untruth, and that he could not with reasonable diligence have obtained knowledge thereof :

(iv.) If, with intent to unlawfully evade this Act, or an Order of Council, or a regulation of a local authority, he alters, or falsely makes, or ante-dates, or counterfeits, or offers or utters, knowing the same to be altered, or falsely made, or ante-dated, or counterfeited, a licence, declaration, certificate, or instrument made or issued, or purporting to be made or issued, under or for any purpose of this Act, or an Order of Council, or a regulation of a local authority :

(v.) If, for the purpose of obtaining such a licence, certificate, or instrument, he makes a declaration or statement false in any material particular, unless he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof :

(vi.) If he obtains or endeavours to obtain such a licence, certificate, or instrument by means of a false pretence, unless he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof :

(vii.) If he grants or issues such a licence, certificate, or instrument, being false in any date or other material particular, unless he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof, or grants or issues such a licence, certificate, or instrument, having, and knowing that he has, no lawful authority to grant or issue the same :

41 & 42 VICT. C. 74. v.

(viii.) If with intent to unlawfully evade or defeat this Act or an Order of Council, or a regulation of a local authority, he grants or issues an instrument being in form a licence, certificate, or instrument made or issued under this Act, or an Order of Council, or a regulation of a local authority, for permitting or regulating the movement of a particular animal, or the doing of any other particular thing, but being issued in blank, that is to say, not being before the issue thereof so filled up as to specify any particular animal or thing :

41 & 42 VICT.
CAP. 74.

(ix.) If he uses or offers or attempts to use for any purpose of this Act, or of an Order of Council, or of a regulation of a local authority, an instrument so issued in blank, unless he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he did not know of it having been so issued in blank, and that he could not with reasonable diligence have obtained knowledge thereof :

(x.) If he by means of any fraud or false pretence obtains, or attempts to obtain, compensation from the Privy Council or a local authority in respect of an animal slaughtered, or aids or abets any person in any such fraud or false pretence :

(xi.) If, without lawful authority or excuse, proof whereof shall lie on him, he digs up, or causes to be dug up, a carcase buried under the direction of the Privy Council or of a local authority or of a receiver of wreck :

(xii.) If, where an Order of Council has prohibited, absolutely or conditionally, the use for the carrying of animals, or for any purpose connected therewith, of a vessel, vehicle, or pen, or other place, he, without lawful authority or excuse, proof whereof shall lie on him, does anything so prohibited.

(2.) And in every case in this section specified he shall be liable, on conviction, in the discretion of the court of summary jurisdiction before which he is convicted, to be imprisoned for any term not exceeding two months, with or without hard labour, in lieu of the pecuniary penalty to which he is liable under this Act.

63. Proceedings and penalties for offences against this Act may be taken and recovered, and expenses and other money by this Act or an Order of Council made recoverable summarily may be recovered with costs, and summary orders under this Act or an Order of Council may be made with costs, by or before a

Proceed-
ings in
court of
summary
jurisdiction

41 & 42 VICT.
CAP. 74.

11 & 12 VICT.
c. 43.

Appeal.

[Amended
by 47 & 48
VICT. c. 43,
s. 4.]

Proceedings
under
Customs
Acts for
unlawful
landing or
shipping.

court of summary jurisdiction, under and according to the Act of the session of the eleventh and twelfth years of Her Majesty's reign (chapter forty-three), "to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Act amending the same; but nothing in this section shall apply to proceedings under the Customs Acts.

64.—(1.) If any person thinks himself aggrieved by the dismissal of a complaint by, or by any determination or adjudication of, a court of summary jurisdiction under this Act, he may appeal therefrom.

(2.) The appeal shall be made to the next practicable court of general or quarter sessions *for the county or place in which the cause of appeal arises, holden not less than twenty-one days after the decision appealed from.*

(3.) *The appellant shall, within ten days after the decision, give notice to the clerk of the court whose decision is appealed from of his intention to appeal, and of the grounds thereof, and to the other party.*

(4.) *The appellant shall within three days after such notice enter into a recognizance before a justice, with two sufficient sureties, conditioned personally to try the appeal.*

(5.) *The court may adjourn the appeal, and may make such order thereon as the court thinks fit.*

(6.) *Nothing in this section shall affect any enactment relative to appeals in cases of summary convictions or adjudications in the city of London or the metropolitan police district, or apply to proceedings under the Customs Acts.*

65.—(1.) If any person lands or ships or attempts to land or ship an animal or thing in contravention of this Act or of an Order of Council, he shall be liable, under and according to the Customs Acts, to the penalties imposed on persons importing or exporting or attempting to import or export goods the importation or exportation whereof is prohibited by or under the Customs Acts, without prejudice to any proceeding against him under this Act for an offence against this Act, but so that he be not punished twice for the same offence.

(2.) The animal or thing in respect whereof the offence is committed shall be forfeited, under and according to the Customs Acts, as goods the importation or exportation whereof is prohibited by or under the Customs Acts are liable to be forfeited.

41 & 42 VICT. c. 74. vii.

66.—(1.) The description of an offence against this Act in the words of this Act, or of the Order of Council or regulation of a local authority under which the offence arises, or in similar words, shall be sufficient in law.

41 & 42 VICT.
CAP. 74.

General
provision as
to procedure

(2.) Any exception, exemption, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, or in the Order of Council or regulation of a local authority under which the offence arises, may be proved by the defendant, but need not be specified or negatived in the information; and, if it is so specified or negatived, proof in relation to the matter so specified or negatived shall not be required on the part of the informant.

(3.) *A warrant of commitment under this Act shall not be held void by reason of any defect therein, if only there is a valid conviction to sustain the warrant, and it is alleged in the warrant that the person named therein has been convicted.*

[Amended
by 47 & 48
VICT. c. 48,
s. 4.]

(4.) Where the owner or person in charge of an animal is charged with an offence against this Act relative to disease or to any illness of the animal, he shall be presumed to have known of the existence of the disease or illness, unless and until he shows to the satisfaction of the court of summary jurisdiction before which he is charged that he had not knowledge thereof, and could not with reasonable diligence have obtained that knowledge.

(5.) Where a person is charged with an offence against this Act in not having duly cleansed or disinfected any place, vessel, vehicle, or thing belonging to him or under his charge, and a presumption against him on the part of the prosecution is raised, it shall lie on him to prove the due cleansing and disinfecting thereof.

(6.) A person charged with an offence against this Act may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon he may give evidence in the same manner and with the like effect and consequences as any other witness.

(7.) Every offence against this Act shall be deemed to have been committed, and every cause of complaint or matter for summary proceeding under this Act, or an Order of Council, or regulation of a local authority, shall be deemed to have arisen, either in any place where the same actually was committed or arose, or in any place where the person charged or complained of or proceeded against happens to be at the time of the

41 & 42 Vict. institution or commencement of the charge, complaint,
cap. 74. or proceeding.

(8.) Notwithstanding anything in any Act relating to the metropolitan police or to municipal corporations or in any other Act, such part not exceeding one half of every penalty or forfeiture recovered under this Act (except in proceedings under the Customs Acts) as the court of summary jurisdiction before which it is recovered thinks fit, shall be paid to the person who proceeds for the same, and the residue thereof shall be applied as if this section had not been enacted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

32 & 33 Vict. c. 70.
 [9th August, 1869,]
 in part.

I.—ENGLAND and SCOTLAND.

The Contagious Diseases (Animals) Act, 1869.

except—

(i.) Paragraphs 2, 3, and 4 of Section 28 (local), relating to the markets of the Mayor, Aldermen, and Commons of the City of London, with the Fifth Schedule, referred to in that section.

(ii.) Sections 100 and 101 (transitory) relating to money borrowed by local authorities before the passing of that Act.

III.—IRELAND.

33 & 34 Vict. c. 36.
 [1 August, 1870.]

The Cattle Disease (Ireland) Amendment Act, 1870.

TELEGRAPH ACT, 1878.

41 & 42 Vict. c. 76. An Act to make further provision respecting the Post Office Telegraphs.
[16th August, 1878.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Telegraph Act, Short title.
1878.

2. In the construction of this Act, unless there is Definitions.
something inconsistent in the context, words and expressions shall have the same meanings as in the Telegraph Act, 1863, and in addition thereto—

The expressions "street" and "public road" shall respectively include any highway.

The expression "Act of Parliament" means any Act of Parliament, whether public, general, local and personal, or private, and includes the order confirmed by any such Act, and includes a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864 :

The expression "Telegraph Acts" includes the 26 & 27 Vict.
c. 112.
29 & 30 Vict.
c. 3.
31 & 32 Vict.
c. 110.
32 & 33 Vict.
c. 73.
33 & 34 Vict.
c. 88.
Telegraph Act, 1863, the Telegraph Act Amendment Act, 1866, the Telegraph Act, 1868, the Telegraph Act, 1869, the Telegraph Act, 1870, this Act and any Acts or parts of Acts incorporated with such Acts or referred to therein, any or either of them, and such several Acts may be cited together as the Telegraph Acts, 1863 to 1878 :

The expression "undertaking" means the works or undertaking of whatever nature the execution of which is authorised by an Act of Parliament as above defined :

The expression "undertakers" means the parties, whether company, commissioners, trustees, corporations, or private persons, empowered by an Act of Parliament as above defined to execute an undertaking, and any lessee or tenant thereof :

The expression "agents" includes contractors, and
41 & 42 Vict. c. 76. i.

41 & 42 Vict.
CAP. 76.

also the officers, engineers, workmen, or servants, as well of the Postmaster General, undertakers, bodies, or persons, as of his or their contractors :

The expression "telegraphic line" means telegraphs, posts, and any work (within the meaning of the Telegraph Act, 1863), and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act :

The expressions "alteration," "alter," and "altering" in respect of a telegraphic line, include the substitution of any new line or portion of a line, either in the same place or in some other place, also any removal of or other dealing with any telegraphic line or any part of such line.

Amend-
ment of 26 &
27 Vict. c.
113 as to
consents.

3. Where any body or person (within the meaning of the Telegraph Act, 1863,) having power under the said Act to give or withhold their consent to the Postmaster General placing telegraphs and posts (within the meaning of the said Act) in, under, upon, along, over, or across a street or public road, or any estuary or branch of the sea, or the shore or bed of any tidal water, or where any proprietors, lessees, directors, or persons having the control of any railway or canal (within the meaning of the said Act), and having power under the said Act to give or withhold a consent to the Postmaster General placing telegraphs and posts under, in, upon, along, or across such railway or canal, fail within twenty-one days after being required to do so by the Postmaster General to give their consent, or attach to their consent any terms, conditions, or stipulations to which the Postmaster General objects, or withdraw a consent, a difference shall be deemed to have arisen between the Postmaster General and such body or person, proprietors, lessees, directors, or persons (as the case may be), and that difference shall be determined in manner hereinafter provided, and the authority by whom the difference is to be determined may, if after hearing all parties concerned they think it just, give their consent either unconditionally or subject to such pecuniary or other terms, conditions, and stipulations as they may think just ; and that consent shall for all purposes be of the same effect as if it were a consent given under the Telegraph Act, 1863, to the Postmaster General by such body or person, proprietors, lessees, directors, or persons.

41 & 42 VICT. C. 76. ii.

4. Where any difference arises under this Act or the Telegraph Act, 1863, between the Postmaster General and any body or person having any power, jurisdiction, or control over or relating to a street or public road, or having power under the last-mentioned Act to give or withhold a consent to the placing of telegraphs and posts in, under, upon, along, or across a street or public road, such difference shall in England or Wales and Ireland be referred to the police or stipendiary magistrate, having jurisdiction within the district in which the difference has arisen, or if there be no such magistrate, then to the judge of the county court having jurisdiction within such district, and in Scotland to the sheriff, and such magistrate, judge, and sheriff are respectively empowered and required to hear and determine such difference, and sections thirty to thirty-three, both inclusive, of the Regulation of Railways Act, 1868, shall apply to every difference so referred to such magistrate, judge, or sheriff (as the case may be) in like manner as if he were an arbitrator appointed pursuant to those sections, and as if the Postmaster General, body, or person between whom the difference has arisen were companies within the meaning of those sections.

41 & 43 Vict.
CAP. 76.

Differences relating to a street or public road to be determined by stipendiary magistrate, county court judge, or sheriff.

33 & 33 Vict.
c. 18, s. 1.
substituted
for 31 & 32
Vict. c. 119
s. 33—by 47.
& 49 Vict. c.
76, s. 17.

Provided always, that in case either the Postmaster General or the body or person between whom the difference has arisen shall be dissatisfied with the award or decision of such magistrate, judge, or sheriff, the party so dissatisfied may within twenty-one days after such award or decision require, by a notice in writing given to the other party, that the difference shall be referred to the Railway Commissioners.

5. The differences so required to be referred by the last preceding section to the Railway Commissioners and all other differences under this Act, except a difference between the Postmaster General and any body or person having any right, power, jurisdiction, or control in, over, or relating to any estuary or branch of the sea or the shore or bed of any tidal water, shall be referred to and shall be determined by the Railway Commissioners for the time being; and every difference referred to them under this Act shall be conducted by the Railway Commissioners in the same manner as any other proceeding is conducted by them under the Acts relating to those Commissioners; and it shall be the duty of the Railway Commissioners, and they are hereby empowered, to undertake and determine any difference referred to them under this Act; and any difference between the Postmaster

General provisions as to arbitration.

41 & 42 Vict.
CAP. 76.

General and any body or person having any right or property or other right, or any power, jurisdiction, or authority in, over, or relating to any estuary, branch of the sea, or the shore or bed of any tidal water shall be referred to and determined by the Board of Trade.

In the event of the Railway Commissioners ceasing to hold office, all differences directed under this Act to be determined by them shall be determined by the Board of Trade, and sections thirty to thirty-three, both inclusive, of the Regulation of Railways Act, 1868, shall apply to every difference to be determined under this Act by the Board of Trade, in like manner as if the Postmaster General, undertakers, body, or person between whom that difference has arisen were companies within the meaning of those sections.

31 & 32 Vict.
c. 119.

Power of
Postmaster
General to
establish
telegraphic
lines on
certain
undertak-
ings
authorised
by special
Act of Par-
liament.

6. Where an Act of Parliament passed after the first day of January one thousand eight hundred and seventy-eight authorises the construction of any of the following undertakings, namely, any railway, canal, tramway other than street tramway, highway, bridge, railway or river embankment, subway, aqueduct over or across a river, dock, harbour, or pier, it shall be lawful for the Postmaster General, by himself or his agents, to place and maintain telegraphic lines in, under, upon, along, over, or across such undertaking, and from time to time to alter the same, and he may from time to time, by himself or his agents, enter upon any land or works of the undertakers for the purpose of placing, maintaining, or altering any telegraphic line in pursuance of this section, or of examining or repairing any line so placed, and may there remain for such reasonable time, and execute and do all such works and things, as may be necessary or convenient for the purposes aforesaid, but shall not interfere with the traffic along or user of the undertaking, subject to the following conditions:

- (1.) In placing, maintaining, or altering such telegraphic lines no obstruction shall be caused to the traffic along or the user of such undertaking:
- (2.) The Postmaster General shall, not less than one month before he places any telegraphic line, give to the undertakers a notice specifying the course and position of the proposed telegraphic lines, and if within one month after such notice the undertakers object to the course or position specified in the notice, and do not agree with the Postmaster General

41 & 42 Vict. c. 76 iv.

on some other course or position, a difference shall be deemed to have arisen between the Postmaster General and the undertakers:

41 & 42 VICT.
CAP. 73.

- (3.) If any damage or injury be caused or any stoppage or delay be occasioned to the works of the undertaking by the placing, repair, or maintenance of such telegraphic lines, the Postmaster General shall at his own expense make good such damage or injury, and shall indemnify the undertakers against any expense to which they may be put by reason of any such damage, injury, stoppage, or delay:
- (4.) If the undertakers shall incur any additional expense by or in consequence of the repair or maintenance of such telegraphic lines, the Postmaster General shall from time to time pay to the undertakers the amount of such additional expense.

This section shall apply to the several railways over which powers were conferred upon the Postmaster General by the Local Acts mentioned in the Schedule to this Act, and to the undertakers empowered by such Local Acts respectively.

Provided that so far as relates to any railways belonging to or leased or worked by any of the railway companies mentioned in section nine, or in the schedule of the Telegraph Act, 1868, the powers of constructing, altering, or maintaining telegraphic lines by the Postmaster General shall not be exercised if and so long as the said companies respectively are able and willing themselves to construct, alter, and maintain such telegraphic lines, and such construction, maintenance, and repair shall be upon the terms and conditions in the said Act or the agreements thereunder declared: Provided also, that this section shall not affect any agreement between any undertakers and the Postmaster General.

If any difference arises between the Postmaster General and any undertakers in relation to the exercise of any power under this section, that difference shall be determined in manner provided by this Act.

7. Where any work proposed to be done in the execution of an undertaking authorised by an Act of Parliament involves or is likely to involve an alteration either temporarily or permanently in any telegraphic line of the Postmaster General, and provision is not otherwise made by enactment, agreement, or otherwise

Provision as to work done in pursuance of special Acts of Parliament which

41 & 42 VICT.
CAP. 78.

involves
alteration
in tele-
graphic
line.

with respect to such alteration or to giving notice to the Postmaster General thereof or to the expenses of or incidental thereto, the following enactments shall apply:

- (1.) The undertakers or their agents shall give to Postmaster General not less than seven nor more than fourteen days previous notice of the time and place at which the work will be begun and the nature of the alteration required :
- (2.) Before the expiration of seven days after the notice is given the Postmaster General may give the undertakers or their agents a counter-notice either stating his intention himself to make, or requiring the undertakers to make under the supervision and to the satisfaction of himself or his agents, such alteration in the telegraphic line as he deems necessary or expedient to be made in consequence of the proposed work :
- (3.) If the Postmaster General by his counter-notice states that it is his intention himself to make such alteration, it shall be lawful for such Postmaster General by himself or his agents to make the same, and the undertakers or their agents shall pay to the Postmaster General all the expenses incurred by him of and incidental thereto, and the amount of any loss or damage sustained by him in consequence thereof :
- (4.) If the Postmaster General by his counter-notice requires the undertakers or their agents to make such alteration, the undertakers or their agents shall, at their own expense, make the same under the supervision and to the reasonable satisfaction of the Postmaster General or his agents, and the said undertakers shall pay to the Postmaster General all the expenses incurred by him of and incidental to such supervision, also the amount of any loss or damage sustained by him in consequence of the alteration :
- (5.) If the Postmaster General fails to give a counter-notice, or if having undertaken himself to make the alteration he or his agents should fail to make within a reasonable time the alteration, the undertakers or their agents may themselves make the alteration to the

reasonable satisfaction of the Postmaster General or his agents :

41 & 42 VICT.
CAP. 76.

- (6.) If any undertakers or their agents fail to serve on the Postmaster General such notice as is required by this section with respect to any work, or begin to do the work specified in a notice served under this section before the expiration of seven days after the notice is given, they shall be liable to pay a fine not exceeding ten pounds for every day during which they continue such work without the sanction in writing of the Postmaster General and the Postmaster General may at the expense of the undertakers remove such work :
- (7.) If any undertakers or their agents fail to comply with the reasonable requirements of the Postmaster General or his agents under this section, they shall be liable to a fine not exceeding ten pounds for every day during which such failure continues, or if the telegraphic communication is interrupted, not exceeding fifty pounds for every day on which such interruption continues :
- (8.) Provided that nothing in this section shall subject any undertakers or their agents to a fine for omitting to comply with any requirements of the Postmaster General or his agents, or for executing without previous notice any work if they satisfy the court having cognizance of the case that any such requirement was unreasonable or that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the post-master or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice :

And where under section eight of the Telegraph Act, 1863, any body to or by whom any such pipe as in that section mentioned belongs or is used require that the position of any telegraphic line of the Postmaster General or any part thereof should be altered, the enactments of the present section shall apply, and for such purposes any such body shall be deemed to be "undertakers."

41 & 43 VICT.
CAP. 76.

Compensation and fine for injury to telegraphic line of the Postmaster General and for interruption to telegraphic communication.

8. When any undertakers, body, or person, by themselves or by their agents, destroy or injure any telegraphic line of the Postmaster General, such undertakers, body, or person shall not only be liable to pay to the Postmaster General such expenses (if any) as he may incur in making good the said destruction or injury, but also, if the telegraphic communication is carelessly or wilfully interrupted, shall be liable to a fine not exceeding twenty pounds per day for every day during which such interruption continues.

Where the undertakers, body, or person liable to pay such daily fine as aforesaid to the Postmaster General are not authorised to execute such works as may be required for remedying the interruption, the interruption shall be deemed to continue either for the time during which it actually continues or for such less time as in the opinion of the court having cognizance of the case would have been sufficient for remedying the interruption by the Postmaster General.

The Postmaster General may, instead of taking proceedings for the recovery of such daily fine as aforesaid, proceed for the recovery of a fine not exceeding fifty pounds, to which the undertakers, body, or person shall be liable on summary conviction.

An act done to a telegraphic line in the course of work undertaken by any undertakers, body, or person in the legal exercise of a right shall not be deemed to be wilful destruction of or injury to such telegraphic line, if due notice of the intended exercise of such right has been given to the Postmaster General, that is to say, the notice required to be given in pursuance of any Act of Parliament or agreement, or where there is no Act of Parliament or agreement requiring such notice, fourteen clear days notice.

This section shall be deemed to be in addition to and not in derogation of any other power or means which the Postmaster General may have of recovering damages in respect of any such destruction or injury as in this section mentioned under any other Act of Parliament or at common law or otherwise, provided that he shall not proceed under this Act and under any other Act or law in respect of the same destruction or injury.

Penalty for obstruction.

9. Where any undertakers, body, or person or their agents obstruct the Postmaster General or his agents in placing, maintaining, altering, examining, or repairing any telegraphic line in pursuance of this Act, or of any consent given in pursuance of this Act, or in supervising or directing any alteration in any telegraphic line made

41 & 42 VICT. c. 76. viii.

by any undertakers or their agents in pursuance of this Act, such undertakers, bodies, or persons and agents respectively shall for every act of obstruction be liable to a fine not exceeding ten pounds, or in case such obstruction continues, ten pounds for every day during which the same continues.

41 & 43 Vict.
CAP. 76.

Prosecution
of offences.

10. All fines and penalties under any of the Telegraph Acts may be recovered by the Postmaster General in manner provided by the Summary Jurisdiction Acts before a court of summary jurisdiction, and for the purposes of this Act—

- (1.) The expression "Summary Jurisdiction Act" means—

as respects England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Act passed or to be passed amending the same; and

as respects Scotland, the Summary Procedure Act, 1864, and any Act passed or to be passed amending the same; and

27 & 28 Vict.
c. 53.

as respects Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act passed or to be passed amending the said Acts, or any of them; and

14 & 15 Vict.
c. 93.

- (2.) The expression "court of summary jurisdiction" means—

as respects England, any justice of the peace or other magistrate or officer to whom jurisdiction is given by the Summary Jurisdiction Acts, so, however, that any case arising under any of the Telegraph Acts shall be heard and determined either by two or more justices of the peace in petty sessions sitting at a court or other place appointed for holding petty sessions, or by some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace; and

as respects Scotland, means any sheriff or sheriff

41 & 42 Vict. c. 76. ix.

41 & 42 VICT.
CAP. 76.

substitute ; and as respects Ireland, means any justice or justices or other magistrate, by whatever name called, having jurisdiction under the Summary Jurisdiction Acts.

All fines and penalties recovered in pursuance of any of the Telegraph Acts shall be paid into the Exchequer.

Provision
as to Post-
master
General.

11. In the Telegraph Acts the expression "Postmaster General" means Her Majesty's Postmaster General for the time being.

Any legal proceeding may be instituted by the Postmaster General for any of the purposes of any of the Telegraph Acts in the name of Her Majesty's Postmaster General for the time being, and shall not abate or be discontinued by reason of any change in the person who is Postmaster General, but may be carried on as if Her Majesty's Postmaster General for the time being were a body corporate ; and where any sum is due or payable to the Postmaster General under any of the Telegraph Acts, or any contract, agreement, or regulations made in pursuance or for any of the purposes of those Acts or any of them, the Postmaster General may recover the same as a debt in any court and in any manner in which it might be recovered if it were a debt due to a private person.

Printing,
authenti-
cation, and
service of
notices and
other docu-
ments.

12. A notice under this Act may be in writing or print, or partly in writing and partly in print.

Any notice, appointment, direction, or document given, issued, or made for the purposes of this Act by the Postmaster General shall be sufficiently authenticated if purporting to be signed by a secretary or assistant secretary of the Post Office, or by a superintending engineer of the Postmaster General, or by an officer appointed for the purpose by the Postmaster General, and when so authenticated shall be deemed to be given, issued, or made by the Postmaster General.

Where a notice is given by any undertakers, body, or person, the notice shall be sufficiently authenticated if purporting to be signed by the chairman, secretary, clerk, or other officer of such undertakers, body, or person.

A notice required to be given under this Act to the Postmaster General may be given by leaving the same at or by forwarding the same by post to the General Post Office in a letter addressed to the Postmaster General or to the Secretary of the Post Office, or to an assistant secretary of the Post Office, or by delivering the same to or forwarding the same by post in a letter addressed to the superintending engineer of the Postmaster General for the district in which is the work, telegraphic

41 & 42 VICT. c. 76. x.

line, or other matter referred to in the notice and addressed to him at his office or usual place of abode. 41 & 42 VICT.
CAP. 78.

A notice required to be given under this Act to any undertakers or body may be given by leaving the same at or by forwarding the same by post to the office, or where there is more than one office the principal office of such undertakers or body in a letter addressed to such undertakers or body, or to their chairman, secretary, clerk, or other officer.

A notice required to be given under this Act to any person may be given by delivering the same to such person or by leaving the same at or forwarding the same by post in a letter addressed to such person at his usual or last known place of abode.

Where a notice is forwarded by post it shall be deemed to have been given at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving the giving thereof it shall be sufficient to prove that the same was properly addressed and put into the post.

The expression "notice" in this section shall be deemed to include a counter-notice.

13. Nothing in this Act contained shall vary or prejudicially affect the rights or obligations subsisting at the time of the passing of this Act, of any Railway or Canal Company, or of the Postmaster General respectively, under the provisions of the Telegraph Acts, 1868 and 1869, or under any deed, agreement, or award made between any Railway or Canal Company and the Postmaster General, whether confirmed by or made in pursuance of the Telegraph Acts; and in regard to all railways and canals now existing or authorised, the provisions of the Telegraph Acts, 1868 and 1869, shall not be affected by this Act except that the arbitrators on any difference between the companies and the Postmaster General shall be those provided by this Act: Provided always, that, notwithstanding the incorporation of the Telegraph Act, 1863, with the Telegraph Act, 1868, the provisions of the Telegraph Act, 1863, shall not be deemed to be provisions of the Telegraph Acts, 1868 and 1869, or either of those Acts, within the meaning of this section, or any part thereof. Saving
existing
rights.

14. Nothing in this Act shall affect the rights of the trustees or proprietors of the Bridgewater Canal under Section 11 of the Telegraph Act, 1868. Saving
rights of
trustees of
Bridgewater
Canal.

SCHEDULE.

LOCAL ACTS REFERRED TO.

Session and Chapter.	Short Title of Act.
40 & 41 Vict. c. 211	Abbotsbury Railway Act, 1877.
40 & 41 Vict. c. 226	Belfast Central Railway Act, 1877.
40 & 41 Vict. c. 213	Birmingham and Lichfield Railway Act, 1877.
40 & 41 Vict. c. 189	Brighton and Dyke Railway Act, 1877.
40 & 41 Vict. c. 174	Bromley Direct Railway Act, 1877.
40 & 41 Vict. c. 157	Bury and Tottington District Railway Act, 1877.
40 & 41 Vict. c. 214	Burry Port and Gwendreath Railway Act, 1877.
40 & 41 Vict. c. 166	Clacton-on-Sea Railway Act, 1877.
40 & 41 Vict. c. 160	Cranbrook and Paddock Wood Railway Act, 1877.
40 & 41 Vict. c. 112	Derry Central Railway Act, 1877.
40 & 41 Vict. c. 231	Dover and Deal Railway Act, 1877.
40 & 41 Vict. c. 156	East London Railway Act, 1877.
40 & 41 Vict. c. 215	Glencairn Railway Act, 1877.
40 & 41 Vict. c. 177	Golden Valley Railway Act, 1877.
40 & 41 Vict. c. 218	Lewes and East Grinstead Railway Act, 1877.
40 & 41 Vict. c. 179	Limerick and Kerry Railway Act, 1877.
40 & 41 Vict. c. 180	Loose Valley Railway Act, 1877.
40 & 41 Vict. c. 220	Mersey Railway Act, 1877.
40 & 41 Vict. c. 233	Metropolitan District Railway Act, 1877.
40 & 41 Vict. c. 197	Penarth, Sully, and Barry Railway Act, 1877.
40 & 41 Vict. c. 148	Severn Bridge Railway Act, 1877.
40 & 41 Vict. c. 144	Usk and Towy Railway Act, 1877.
40 & 41 Vict. c. 225	Welshpool and Llanfair Railway Act, 1877.
40 & 41 Vict. c. 185	Whitland and Taf Vale Railway Act, 1877.
40 & 41 Vict. c. 199	Whitland, Cronware, and Pendine Railway Act, 1877.

REGULATION OF RAILWAYS ACTS, 1873 AND
1874, CONTINUANCE ACT, 1879.

42 & 43 Vict. cap. 56.—An Act to continue for a
further period the Regulation of Railways Acts,
1873 and 1874. [15th August, 1879.]

WHEREAS the Regulation of Railways Acts, 1873 and 1874, will expire on the thirty-first day of December, one thousand eight hundred and seventy-nine; and it is expedient to continue the said Acts for a further period:

36 & 37 Vict.
c. 48.
37 & 38 Vict.
c. 40.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Regulation of Railways Acts, 1873 and 1874, Continuance Act, 1879. Short title

2. The Regulation of Railways Acts, 1873 and 1874, and any enactments amending or affecting the same, in so far as they are temporary in their duration, shall continue in force until the thirty-first day of December, one thousand eight hundred and eighty-two.

Continuing
36 & 37 Vict.
c. 48 and
37 & 38 Vict.
c. 40.

COMPANIES ACT, 1879.

42 & 43 Vict. cap. 76.—An Act to amend the Law with respect to the Liability of Members of Banking and other Joint Stock Companies ; and for other purposes. [15th August, 1879.]

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

Act not to apply to Bank of England.

Act to be construed with 25 & 26 Vict. c. 89., 30 & 31 Vict. c. 131, and 40 & 41 Vict. c. 26.

Registration anew of company 25 & 26 Vict. c. 89., 30 & 31 Vict. c. 131., 40 & 41 Vict. c. 26., 42 & 43 Vict. c. 76.

25 & 26 Vict. c. 89.

Reserve capital of company, how provided. 25 & 26 Vict. c. 89., 30 & 31 Vict. c. 131., 40 & 41 Vict. c. 26., 42 & 43 Vict. c. 76.

1. This Act may be cited as the Companies Act, 1879.
2. This Act shall not apply to the Bank of England.
3. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862, 1867, and 1877, and those Acts, together with this Act, may be referred to as the Companies Acts, 1862 to 1879.

4. Subject as in this Act mentioned, any company registered before or after the passing of this Act as an unlimited company may register under the Companies Acts, 1862 to 1879, as a limited company, or any company already registered as a limited company may re-register under the provisions of this Act.

The registration of an unlimited company as a limited company in pursuance of this Act shall not affect or prejudice any debts, liabilities, obligations, or contracts incurred or entered into by, to, with, or on behalf of such company prior to registration, and such debts, liabilities, contracts, and obligations may be enforced in manner provided by Part VII. of the Companies Act, 1862, in the case of a company registering in pursuance of that part.

5. An unlimited company may, by the resolution passed by the members when assenting to registration as a limited company under the Companies Acts, 1862 to 1879, and for the purpose of such registration or otherwise, increase the nominal amount of its capital by increasing the nominal amount of each of its shares. Provided always, that no part of such increased capital shall be capable of being called up, except in the event of and for the purposes of the company being wound up.

42 & 43 VICT. c. 76. i.

And, in cases where no such increase of nominal capital may be resolved upon, an unlimited company may, by such resolution as aforesaid, provide that a portion of its uncalled capital shall not be capable of being called up, except in the event of and for the purposes of the company being wound up.

42 & 43 VICT.
CAP. 76.

A limited company may by a special resolution declare that any portion of its capital which has not been already called up shall not be capable of being called up, except in the event of and for the purpose of the company being wound up; and thereupon such portion of capital shall not be capable of being called up, except in the event of and for the purposes of the company being wound up.

6. Section one hundred and eighty-two of the Companies Act, 1862, is hereby repealed, and in place thereof it is enacted as follows:—A bank of issue registered as a limited company, either before or after the passing of this Act, shall not be entitled to limited liability in respect of its notes; and the members thereof shall continue liable in respect of its notes in the same manner as if it had been registered as an unlimited company; but in case the general assets of the company are, in the event of the company being wound up, insufficient to satisfy the claims of both the note-holders and the general creditors, then the members, after satisfying the remaining demands of the note-holders, shall be liable to contribute towards payment of the debts of the general creditors a sum equal to the amount received by the note-holders out of the general assets of the company.

25 & 26 VICT.
c. 89. s. 182.
repealed,
and
liability of
bank of
issue
unlimited
in respect
of notes.

For the purposes of this section the expression "the general assets of the company" means the funds available for payment of the general creditor as well as the note-holder.

It shall be lawful for any bank of issue registered as a limited company to make a statement on its notes to the effect that the limited liability does not extend to its notes, and that the members of the company continue liable in respect of its notes in the same manner as if it had been registered as an unlimited company.

7. (1.) Once at the least in every year the accounts of every banking company registered after the passing of this Act as a limited company shall be examined by an auditor or auditors, who shall be elected annually by the company in general meeting.

Audit of
accounts
banking
companies.

(2.) A director or officer of the company shall not be capable of being elected auditor of such company.

42 & 43 VICT. c. 76. ii.

42 & 43 VICT.
CAP. 76.

{3.} An auditor on quitting office shall be re-eligible.

{4.} If any casual vacancy occurs in the office of any auditor the surviving auditor or auditors (if any) may act, but if there is no surviving auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the vacancy or vacancies in the auditorship.

{5.} Every auditor shall have a list delivered to him of all books kept by the company, and shall at all reasonable times have access to the books and accounts of the company; and any auditor may, in relation to such books and accounts, examine the directors or any other officer of the company: Provided that if a banking company has branch banks beyond the limits of Europe, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as may have been transmitted to the head office of the banking company in the united kingdom.

{6.} The auditor or auditors shall make a report to the members on the accounts examined by him or them, and on every balance sheet laid before the company in general meeting during his or their tenure of office: and in every such report shall state whether, in his or their opinion, the balance sheet referred to in the report is a full and fair balance sheet properly drawn up, so as to exhibit a true and correct view of the state of the company's affairs, as shown by the books of the company; and such report shall be read before the company in general meeting.

{7.} The remuneration of the auditor or auditors shall be fixed by the general meeting appointing such auditor or auditors, and shall be paid by the company.

Signature
of balance
sheet.

8. Every balance sheet submitted to the annual or other meeting of the members of every banking company registered after the passing of this Act as a limited company shall be signed by the auditor or auditors, and by the secretary or manager (if any), and by the directors of the company, or three of such directors at the least.

Applica-
tion of 26 &
28 Vict. c.
39., 30 & 31
Vict. c. 131,
and 40 & 41
Vict. c. 26.

9. On the registration, in pursuance of this Act, of a company which has been already registered, the registrar shall make provision for closing the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company; but, save as aforesaid, the registration of such a company shall take

42 & 43 VICT. c. 76. iii.

place in the same manner and have the same effect as if it were the first registration of that company under the Companies Acts, 1862 to 1879, and as if the provisions of the Acts under which the company was previously registered and regulated had been contained in different Acts of Parliament from those under which the company is registered as a limited company.

10. A company authorised to register under ~~this~~ Act may register thereunder and avail ~~itself~~ of the privileges conferred by this Act, notwithstanding any provisions contained in any Act of Parliament, royal charter, deed of settlement, contract of copartnership, ~~cost book~~, regulations, letters patent, or other instrument constituting or regulating the company.

42 & 43 VICT.
CAP. 76.
25 & 26 VICT.
c. 89., 30 &
31 VICT. c.
131., 40 & 41
VICT. c. 28.,
and 42 & 43
VICT. c. 76.

Privileges
of Act
available
notwith-
standing
constitution
of company.

PUBLIC WORKS LOANS ACT, 1879.

42 & 43 Vict. cap. 77—An Act to amend the Acts relating to the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland, and to grant money for the purpose of Loans by the said Commissioners ; and for other purposes in relation thereto.

[15th August, 1879.]

Act not to apply to old loans to loans specially saved by 39 & 40 Vict. c. 31. ss. 4, 5, nor to loans under 33 & 34 Vict. c. 46.

4. Nothing in this Act shall apply to any loan granted before the passing of this Act, nor to any instalments subsequently advanced in respect of such loan, nor to any advance which the Public Works Loan Commissioners are authorised to make, by sections four and five of the Public Works Loans Money Act, 1876, and the Acts in those sections mentioned, to the Port Patrick and Belfast and County Down Railway Companies, and for improving the harbour of Colombo, nor to any advance under the Irish Land Act, 1870, or any Act authorising loans for the improvement, drainage, or purchase of lands in Ireland.

Provided, that where though a loan has not been actually granted before the passing of this Act, negotiations for the same have proceeded so far as to make it in the opinion of the Commissioners of Her Majesty's Treasury inequitable for such loan to be subject to the provisions of this Act or any of them, such loan shall, for the purposes of those provisions, be deemed to be a loan granted before the passing of this Act.

COMPANIES ACT, 1880.

43 Vict. cap. 19.—An Act to amend the Companies Acts of 1862, 1867, 1877, and 1879.

[24th March, 1880.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Short title. Companies Act, 1880.

2. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862, 1867, 1877, and 1879, and the said Acts and this Act may be referred to as the Companies Acts, 1862 to 1880.

3. When any Company has accumulated a sum of undivided profits, which with the consent of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, it shall be lawful for the Company, by special resolution, to return the same, or any part thereof, to the shareholders in reduction of the paid-up capital of the Company, the unpaid capital being thereby increased by a similar amount. The powers vested in the directors of making calls upon the shareholders in respect of moneys unpaid upon their shares shall extend to the amount of the unpaid capital as augmented by such reduction.

4. No such special resolution as aforesaid shall take effect until a memorandum, showing the particulars required by law in the case of a reduction of capital by order of the court, shall have been produced to and registered by the Registrar of Joint Stock Companies.

5. Upon any reduction of paid-up capital made in pursuance of this Act, it shall be lawful for any shareholder, or for any one or more of several joint shareholders, within one month after the passing of the special resolution for such reduction, to require the Company to retain, and the Company shall retain accordingly, the whole of the moneys actually paid upon the shares held by such person, either alone or jointly with any other person or persons, and which, in consequence of such reduction, would otherwise be returned to him or them, and thereupon the shares in respect of which

43 Vict. c. 19. i.

Construction of Acts. 25 & 26 Vict. c. 89., 30 & 31 Vict. c. 131., 40 & 41 Vict. c. 26., 42 & 43 Vict. c. 76.

Accumulated profits may be returned to shareholders in reduction of paid-up capital.

No resolution to take effect till particulars have been registered.

Power to any shareholder within one month after passing of resolution to require Company to retain moneys paid upon shares held by such person.

43 VICT.
CAP. 19.

the said moneys shall be so retained shall, in regard to the payment of dividends thereon, be deemed to be paid up to the same extent only as the shares on which payment as aforesaid has been accepted by the shareholders in reduction of their paid-up capital, and the the Company shall invest and keep invested the moneys so retained in such securities authorised for investment by trustees as the Company shall determine, and upon the money so invested, or upon so much thereof as from time to time exceeds the amount of calls subsequently made upon the shares in respect of which such moneys shall have been retained, the Company shall pay such interest as shall be received by them from time to time on such securities, and the amount so retained and invested shall be held to represent the future calls which may be made to replace the capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made, produces more or less than the amount of such call.

Company to specify amounts which shareholders have required them to retain under s. 6.; also to specify amounts of profits returned to shareholders.
25 & 26 Vict. c. 89.

Power of Registrar to strike names of defunct Companies off register.

6. From and after such reduction of capital the Company shall specify in the annual lists of members, to be made by them in pursuance of the twenty-sixth section of the Companies Act, 1862, the amounts which any of the shareholders of the Company shall have required the Company to retain, and the Company shall have retained accordingly, in pursuance of the fifth section of this Act, and the Company shall also specify in the statements of account laid before any general meeting of the Company the amount of the undivided profits of the Company which shall have been returned to the shareholders in reduction of the paid-up capital of the Company under this Act.

7.—(1.) Where the Registrar of Joint Stock Companies has reasonable cause to believe that a Company, whether registered before or after the passing of this Act, is not carrying on business or in operation, he shall send to the Company by post a letter inquiring whether the Company is carrying on business or in operation.

(2.) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the Company by post a registered letter referring to the first letter, and stating that no answer thereto has been received by the Registrar, and that if an answer is not received to the second letter within one month from the date thereof, a notice will be pub-

lished in the Gazette with a view to striking the name of the Company off the register.

43 VICT.
CAP. 19.

(3.) If the Registrar either receives an answer from the Company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer thereto, the Registrar may publish in the Gazette and send to the Company a notice that at the expiration of three months from the date of that notice the name of the Company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the Company will be dissolved.

(4.) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by such Company, strike the name of such Company off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of such last-mentioned notice the Company whose name is so struck off shall be dissolved: Provided that the liability (if any) of every director, managing officer, and member of the Company shall continue and may be enforced as if the Company had not been dissolved.

(5.) If any Company or member thereof feels aggrieved by the name of such Company having been struck off the register in pursuance of this section, the Company or member may apply to the superior court in which the Company is liable to be wound up; and such court, if satisfied that the Company was at the time of the striking off carrying on business or in operation, and that it is just so to do, may order the name of the Company to be restored to the register, and thereupon the Company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the Company and all other persons in the same position as nearly as may be as if the name of the Company had never been struck off.

(6.) A letter or notice authorised or required for the purposes of this section to be sent to a Company may be sent by post addressed to the Company at its registered office, or, if no office has been registered, addressed to the care of some director or officer of the Company, or if there be no director or officer of the Company whose name and address are known to the Registrar, the letter or notice (in identical form) may be sent to each of the persons who subscribed the

43 VICT. c. 19. iii.

43 VICT.
CAP. 19.



memorandum of association, addressed to him at the address mentioned in that memorandum.

(7.) In the execution of his duties under this section the Registrar shall conform to any regulations which may be from time to time made by the Board of Trade.

(8.) In this section the Gazette means, as respects Companies whose registered office is in England, the London Gazette; as respects Companies whose registered office is in Scotland, the Edinburgh Gazette; and as respects Companies whose registered office is in Ireland, the Dublin Gazette.

RELIEF OF DISTRESS (IRELAND) AMENDMENT
ACT, 1880.

43 & 44 Vict. cap. 14.—An Act to amend the Relief of Distress (Ireland) Act, 1880 ; and for other purposes relating thereto.

[2nd August, 1880.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Relief of Distress Short title. (Ireland) Amendment Act, 1880.

2. Whereas by the seventeenth section of the Relief of Distress (Ireland) Act, 1880, it is enacted that the Commissioners of Church Temporalities in Ireland shall advance to the Commissioners of Public Works, out of any moneys at their disposal or which they may raise on the security of their annual income, such sum or sums not exceeding in the whole the sum of seven hundred and fifty thousand pounds as the Commissioners of the Treasury may from time to time direct, and whereas the said limited sum has been found insufficient for the purposes of the Act : And whereas it is desirable to enable the Commissioners of Public Works on the recommendation of the Local Government Board to advance moneys by way of grant to the Board of Guardians in any union authorised to give out-door relief under section three of the Relief of Distress (Ireland) Act, 1880, subject to the restrictions and conditions hereinafter set forth :

Therefore, the seventeenth section of the said Act shall be construed as if the words one million five hundred thousand pounds were therein substituted for the words seven hundred and fifty thousand pounds : And with the view of facilitating the raising of the said increased sum, the Commissioners for the Reduction of the National Debt and the Commissioners of Church Temporalities may from time to time vary the terms for the repayment of any loan made or to be made by the Commissioners for the Reduction of the National Debt, and the security for such loan : And the Treasury may, if they think fit, from time to time continue their

43 & 44 VICT. c. 14. i.

Amend-
ment of 43
Vict. c. 4.

43 Vict. c. 4.

43 & 44 VICT. CAP. 14. guarantee to the loan and security varied as aforesaid.

43 Vict. c. 4. The Commissioners of Public Works in Ireland may from time to time on the recommendation of the Local Government Board grant to the Board of Guardians in any union authorised to give out-door relief under the third section of the Relief of Distress (Ireland) Act, 1880, out of the said sum of one million five hundred thousand pounds, such moneys as the Local Government Board may find necessary, having regard to the financial condition of such union and the pressure of distress within its limits, to aid in giving out-door relief in such union: Provided that the entire sum to be so granted shall not exceed two hundred thousand pounds.

Powers of Board of Works. 3. The Commissioners of Public Works may, if they think fit, from time to time, with the consent of the Treasury, out of any moneys placed at their disposal by Parliament for the making of loans or grants, apply such sums not exceeding in all the sum of forty-five thousand pounds as the Treasury may sanction for the purposes of the Fishery Piers Act, to be expended in the manner therein mentioned, but subject to the conditions of this Act.

9 & 10 Vict. c. 3. Provided that the power conferred upon the Commissioners by this section shall only be exercised with reference to works for which an application by memorial under the Fishery Piers Act shall have been made before the passing of this Act or for which an application by memorial shall be made after the passing of this Act and before the thirtieth day of September one thousand eight hundred and eighty.

Terms upon which Commissioners may undertake works. 4. When any person interested in the execution of any work which might be executed under the Fishery Piers Act pays to the Commissioners of Public Works one-fourth part of the cost of such work as estimated by the Commissioners, they may, with the consent of the Treasury, publish in the "Dublin Gazette" or otherwise, as they shall think fit, a notice of their intention to undertake such work, which notice shall be instead of, and shall have all the force and effect of the final notice mentioned in the sixteenth section of the Fishery Piers Act.

9 & 10 Vict. c. 3. Before publishing such notice the Commissioners may, if they think fit, do any matter or thing, and shall have and may if they think fit exercise any right, power, or authority in connection with such work, which they might do or would have with reference to

any of the proceedings preliminary to the publication of the final notice mentioned in the Fishery Piers Act if the work were undertaken in strict compliance with the said Act.

43 & 44 VICT.
CAP. 14.
9 & 10 VICT.
c. 3.

The provisions contained in the following sections of the Fishery Piers Act, that is to say, section four, subsection four, section five, and sections ten to fifteen, both included, relative to proceedings preliminary to the publication of such notice, shall not apply to any such work.

9 & 10 VICT.
c. 3.

5. At any time after the publication by the Commissioners of Public Works of any such notice as is mentioned in this Act, the Commissioners may commence and proceed with the works proposed to be executed and to which such notice relates.

Power to undertake works.

The Commissioners may, if they think fit, do any matter or thing, and shall have and may if they think fit exercise any right, power, or authority with reference to such work, which they might do or would have if the work were undertaken in strict compliance with the Fishery Piers Act, and all the enactments contained in that Act, save so far as they are modified by this Act, shall apply as nearly as may be with reference to any such work.

9 & 10 VICT.
c. 3.

6. When such work has been constructed, all the provisions of the Fishery Piers Act and of the Act of the session of Parliament held in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter one hundred and thirty-six, as amended by any Act or Acts, shall apply to such work as if it was a pier constructed in strict compliance with the Fishery Piers Act.

Management and maintenance of works when constructed
9 & 10 VICT.
c. 3.
9 & 10 VICT.
c. 3.

7. The fourth and fifth sections of the Relief of Distress (Ireland) Act, 1880, shall be amended as follows; (that is to say,)

Amendment of terms of loans to boards of guardians.

(1.) The term for which money may be borrowed by the board of guardians of any union authorised to give out-door relief under the third section of the Relief of Distress (Ireland) Act, 1880, shall be extended to twelve years. The rate of interest at which the Commissioners of Public Works may lend to any such board of guardians shall be reduced to one per centum per annum; and, in the case of any loan by the Commissioners of Public Works to any such board of guardians, the payment of the first instalment payable in respect of such loan may, with the consent of the Treasury, be

43 VICT. c. 4.

43 & 44 VICT.
CAP. 14.

postponed for any period not exceeding two years from the making of the loan, and no interest shall be charged on such loan during any such period of postponement of payment of the first instalment :

(2.) The board of guardians of any union authorised as aforesaid, and which has contracted any loan for the purpose of giving out-door relief under the provisions of the said Act, may borrow money under the provisions of this section to pay off such loan :

(3.) So much as may be necessary of the said sum of one million five hundred thousand pounds payable by the Commissioners of Church Temporalities to the Commissioners of Public Works shall be applied by the Commissioners of Public Works in making good any advance by way of loan which they may make to a board of guardians under the authority of the Relief of Distress (Ireland) Act, 1880, as amended by this Act.

43 Vict. c. 4.

The provisions of the nineteenth section of the Relief of Distress (Ireland) Act, 1880, shall apply to the repayment of all amounts advanced as last aforesaid by way of loan to board of guardians as fully as if such advances had been specified in that section.

Funds for
preliminary
expenses of
loans.

8. In addition to the sum of five thousand pounds which it is provided by the fifteenth section of the Act of the session of Parliament held in the tenth and eleventh years of the reign of Her present Majesty, chapter thirty-two, may be advanced by the Treasury to the Commissioners of Public Works in any one year, to be applied by them in making the necessary survey, inspection, and investigation, and in taking all other proceedings preliminary to making any loan or advance as therein mentioned, the Commissioners of Public Works may, at any time before the thirty-first day of March next after the passing of this Act, with the consent of the Treasury, out of any moneys placed at their disposal by Parliament for the making of loans, apply the further sum of five thousand pounds, or such other sum as the Treasury may from time to time deem necessary, for defraying the expenses mentioned in the said section.

Grant of
out-door
relief.

9. The Local Government Board shall, up to the first day of March one thousand eight hundred and eighty-one, be entitled to authorize the grant of out-door relief in food and fuel, or either, by order for the time

43 & 44 VICT. C. 14. iv.

and subject to the power of revocation stated in section three of the Relief of Distress (Ireland) Act, 1880, and the said section three shall be read and construed in all respects as if the said first day of March one thousand eight hundred and eight-one had been there inserted instead of the thirty-first day of December one thousand eight hundred and eighty.

43 & 44 VICT.
CAP. 14.
43 VICT. c. 4.

10. Whenever by any award or otherwise the rent of any tenant shall be increased by reason or in respect of any works executed on his holding under the Relief of Distress (Ireland) Act, 1880, then, and in every such case, the works so executed shall, so far as such increase of rent shall exceed the rate of two and a half per centum per annum interest on the capital expended in the execution of the said works, and shall be paid by such tenant or his successor in title, be deemed to be improvements made by such tenant within the meaning of the fourth section of the Landlord and Tenant (Ireland) Act, 1870.

Definition of improvements under s. 4. of 33 & 34 VICT. c. 46.

43 VICT. c. 4.

33 & 34 VICT. c. 46.

But the court in awarding compensation, if any, to such tenant in respect of such improvement shall, in reduction of the claim of the tenant, take into consideration the time during which such tenant may have enjoyed the advantage of such improvements, also the rent at which such holding has been held, and any benefits which such tenant may have received from his landlord in consideration, expressly or impliedly, of the improvements so made.

11. At any time before the making by the board of guardians of any union of either of the special rates which the guardians are authorized to make under the provisions of the seventh section of the Seed Supply (Ireland) Act, 1880, the Local Government Board, if satisfied by the representations made to them by the board of guardians or otherwise that it is expedient and necessary to do so, may, by order, authorize, or, if they think fit, may require the board of guardians to postpone the making of such rate for one year, and the board of guardians shall postpone the making of such rate accordingly.

Postponement of making special rate under 43 VICT. c. 1.

Such order may be made with reference to the whole of any union, or with reference to any electoral division in the union.

Whenever any such postponement of the making of a special rate takes place in any union or electoral division, the payment of the amount of the instalment due in respect of the loan to such union or electoral division, and payable by the board of guardians of the union to the Commissioners of Public Works next after the issuing of such order, in accordance with the provisions of the

43 & 44 VICT. c. 14. v.

43 & 44 VICT.
CAP. 14.

Interpreta-
tion.

barony charging the barony with any sum according to the provisions of this Act, make out, before each assizes, a certificate for each county in which such presentment has been made, specifying the amount then properly chargeable upon the barony under such presentment, and shall transmit the certificate to the secretary of the grand jury, to be laid before the grand jury, and thereupon the grand jury shall, without any previous application to presentment sessions, make a presentment for the amount specified in such certificate as payable by such barony, or, in default of such presentment, the amount shall be raised off the barony by an order of the judge of assize, which order shall have the force of a presentment. The amounts raised under such presentments shall be paid to the Commissioners of Public Works in such manner as the Treasury shall direct.

16. In this Act the term "the Fishery Piers Act" means the Act passed in the session of Parliament held in the ninth and tenth years of the reign of Her present Majesty, chapter three, as altered or amended by any Act or Acts.

The term "Commissioners of Public Works" means the Commissioners of Public Works in Ireland.

The term "the Lord Lieutenant" means the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being.

The term "the Treasury" means the Commissioners of Her Majesty's Treasury.

SCHEDULE.

1. Railway or tramway from Kilrush to Kilkee.
 2. Railway or tramway from Ennis to Kilrush, viâ Kildysart.
 3. Railway or tramway from Killaloe to Scariff.
 4. Railway or tramway from Ennis to Ennistymon, and Miltown Malbay.
 5. Railway from Loughrea to Attymon or its vicinity.
 6. Railway from Tuam to Claremorris.
 7. Railway or tramway from Galway to Clifden, or Galway to Oughterard.
 8. Railway or tramway from Youghal to Cappa.
 9. Railway from Macroom to Kenmare.
 10. Railway from Bandon to Clonakilty.
 11. Railway from Cork to Fermoy and Mitchellstown.
 12. Railway from Mchill to Dromod.
- 43 & 44 VICT. c. 14. viii.

13. Letterkenny Railway.
14. Stranorlar and Donegal Railway.
15. Donegal and Castlecauldwell Railway.
16. Ballymena and Portglenone Railway.
17. Clara and Banagher Railway.
18. Ennis and West Clare Railway.
19. Cork and Macroon Railway.
20. Killorglin Railway in Kerry.
21. Loughrea and Craughwell Railway.
22. Railway or tramway from Bundoran to Sligo.
23. Railway or tramway from Ennis to Tulla and Scariff.
24. Railway from Belturbet Junction, viâ Belturbet, Ballyconnell and Ballinamore to Dromod.
25. Railway from Oldcastle to Kilnaleck.
26. Railway from Portumna to Loughrea.
27. Railway from Nenagh to Thurles.
28. Railway from Cashel to Slieveragh.
29. Ballinamore and Ballyconnell Canal.
30. Railway from Ardee to junction with Great Northern Railway at or near Blackmills, county Louth.
31. Railway or tramway from Port Oriel, Clogherhead, to junction with Great Northern Railway at or near the Cross of Grange, county Louth.
32. Railway from, at, or near Kingscourt to Carrickmacross, in the county of Monaghan.
33. Railway or tramway from Inniskeen to Carrickmacross, in the county of Monaghan.
34. Tramway from Bray to Enniskerry, in the county of Wicklow.
35. Tramway between railway station Kanturk and Newmarket, county Cork.
36. Railway from Swineford to Ballaghaderreen, county Mayo.
37. Tramway from Youghal to Cappagh.
38. Causeway and toll bridge connecting Cunnigar with Dungarvan.
39. Railway or tramway from Cashel to Farranaleen.
40. Railway from Headford to Kenmare.
41. Railway from Ballina to Ballisodare, county Sligo.
42. Railway from Laffansbridge to Cashel.
43. Railway or tramway from Rhode to Edenderry.

TAXES MANAGEMENT ACT, 1880.

43 & 44 Vict. cap. 19.—An Act to Consolidate Enactments relating to certain Taxes and Duties under the Management of the Board of Inland Revenue.

[6th August, 1880.]

Saving as
to English
and Irish
railways.

95. Railway Companies in England and Ireland shall pay the duties of income tax, under Schedule D., by four quarterly payments; namely, on or before the twentieth day of June for the first quarterly instalment, and on or before the twentieth days of September, December, and March in each year for the second, third and fourth quarterly instalments respectively.

RAILWAYS CONSTRUCTION AMENDMENT (IRELAND) ACT, 1880.

43 & 44 Vict. Cap. 31. An Act to amend the
Railways Construction Facilities Act, 1864.

[26th August, 1880.]

WHEREAS by the Railways Construction Facilities Act 27 & 28 Vict.
it has been necessary for the Board of Trade to lay c. 121.
before both Houses of Parliament a draft of the certificate which it is empowered to grant in certain cases for the construction of railways :

And whereas it is desirable to facilitate the construction of certain railways in Ireland during the present and coming year :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Railways Construction Amendment (Ireland) Act, 1880. Short title.

2. During the years one thousand eight hundred and eighty and one thousand eight hundred and eighty-one, the Board of Trade may, if Parliament is not sitting, when the Board has settled the draft certificate referred to in the Railways Construction Facilities Act, 1864, at once issue their certificate for any Irish railways now scheduled in the Relief of Distress (Ireland) Amendment Act, 1880, and it shall not be necessary to refer to either House of Parliament or to lay a draft of such certificate before either House of Parliament. Issue of certificate when Parliament is not sitting. 27 & 28 Vict. c. 121.

3. If Parliament is sitting when the draft certificate is settled by the Board of Trade, such draft certificate shall be laid before both Houses of Parliament for two weeks instead of six weeks as specified in section sixteen of the Railways Construction Facilities Act, 1864, and if neither House of Parliament within the period of two weeks thinks fit to resolve that the certificate ought not to be made, then as soon as the period of two weeks after the laying of the draft certificate before both Houses of Parliament has expired, the Board of Trade may make and issue a certificate in conformity with such draft. Issue of certificate when Parliament is sitting. 27 & 28 Vict. c. 121.

43 & 44 VICT. c. 31. i

43 & 44 Vict.
CAP. 31.

Advertisements of application.
27 & 28 Vict.
c. 121.

Award of borrowing powers to railway companies.
43 & 44 Vict.
c. 14.

Application of 27 & 28 Vict.
c. 121.

Extent of Act.

Duration of Act.

4. Notwithstanding anything to the contrary in the Railways Construction Facilities Act, 1864, and the regulations scheduled thereto, the advertisements of the application may be made at any time, and may state that objections or representations must be made within twenty-one days from the date of such advertisement, and any objection or representation not made within such period of twenty-one days shall be deemed not to have been made within the period limited by the said Act.

5. The Board of Trade may, if they think fit, in their certificate, award for any railway scheduled in the schedule of the Relief of Distress (Ireland) Amendment Act, 1880, borrowing powers not exceeding one half of the amount of the share capital authorised by the certificate.

6. All the provisions of the Railways Construction Facilities Act, 1864, shall apply to the making and effect of every such certificate, except when inconsistent with the provisions of this Act.

7. This Act shall extend to Ireland only.

8. This Act shall expire on the thirty-first day of December one thousand eight hundred and eighty-one except as regards any application pending at that date.

EMPLOYERS' LIABILITY ACT, 1880.

43 & 44 Vict. Cap. 42. An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service.

[7th September, 1880.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. Where after the commencement of this Act personal injury is caused to a workman

Amend-
ment of
law.

(1.) By reason of any defect in the condition of the ways, works, machinery, or plant connected with or used in the business of the employer ;
or

(2.) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence ; or

(3.) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform, and did conform, where such injury resulted from his having so conformed ; or

(4.) By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or byelaws of the employer, or in obedience to particular instructions given by any person delegated with the authority of the employer in that behalf ;
or

(5.) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal, points, locomotive engine, or train upon a railway,

the workman, or in case the injury results in death, the legal personal representatives of the workman, and any persons entitled in case of death, shall have the same right of compensation and remedies against the employer,

43 & 44 Vict. c. 42. i.

43 & 44 Vict.
c. 42.

Exceptions
to amend-
ment of
law.

as if the workman had not been a workman of nor in the service of the employer, nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases; that is to say,

(1.) Under sub-section one of section one, unless the defect therein mentioned arose from, or had not been discovered or remedied owing to the negligence of the employer, or of some person in the service of the employer, and entrusted by him with the duty of seeing that the ways, works, machinery, or plant were in proper condition.

(2.) Under sub-section four of section one, unless the injury resulted from some impropriety or defect in the rules, byelaws, or instructions therein mentioned; provided that where a rule or byelaw has been approved or has been accepted as a proper rule or byelaw by one of Her Majesty's Principal Secretaries of State, or by the Board of Trade or any other department of the Government, under or by virtue of any Act of Parliament, it shall not be deemed for the purposes of this Act to be an improper or defective rule or byelaw.

(3.) In any case where the workman knew of the defect or negligence which caused his injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer or some person superior to himself in the service of the employer, unless he was aware that the employer or such superior already knew of the said defect or negligence.

Limit of
sum
recoverable
as com-
pensation.

3. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings, during the three years preceding the injury, of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of
time for
recovery of
compensation.

4. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within six weeks, and the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months from the time of death: Provided always, that in case of death the want of such notice shall be no bar to the

43 & 44 Vict. c. 42. ii.

maintenance of such action if the judge shall be of opinion that there was reasonable excuse for such want of notice. 43 & 44 VICT. CAP. 42.

5. There shall be deducted from any compensation awarded to any workman, or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause of action arising under this Act, any penalty or part of a penalty which may have been paid in pursuance of any other Act of Parliament to such workman, representatives, or persons in respect of the same cause of action; and where an action has been brought under this Act by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman, for compensation in respect of any cause of action arising under this Act, and payment has not previously been made of any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action, such workman, representatives, or person shall not be entitled thereafter to receive any penalty or part of a penalty under any other Act of Parliament in respect of the same cause of action. Money payable under penalty to be deducted from compensation under Act.

6.—(1.) Every action for recovery of compensation under this Act shall be brought in a county court, but may, upon the application of either plaintiff or defendant, be removed into a superior court in like manner and upon the same conditions as an action commenced in a county court may by law be removed. Trial of actions.

(2.) Upon the trial of any such action in a county court before the judge without a jury one or more assessors may be appointed for the purpose of ascertaining the amount of compensation.

(3.) For the purpose of regulating the conditions and mode of appointment and remuneration of such assessors, and all matters of procedure relating to their duties, and also for the purpose of consolidating any actions under this Act in a county court, and otherwise preventing multiplicity of such actions, rules and regulations may be made, varied, and repealed from time to time in the same manner as rules and regulations for regulating the practice and procedure in other actions in county courts.

"County Court" shall, with respect to Scotland, mean the "Sheriff's Court," and shall, with respect to Ireland, mean the "Civil Bill Court."

In Scotland any action under this Act may be removed to the Court of Session at the instance of

43 & 44 VICT. C. 42. iii.

43 & 44 Vict.
c. 42.

40 & 41 Vict.
c. 50.

Mode of
serving
notice of
injury.

either party, in the manner provided by, and subject to the conditions prescribed by, section nine of the Sheriff Courts (Scotland) Act, 1877.

In Scotland the Sheriff may conjoin actions arising out of the same occurrence or cause of action, though at the instance of different parties and in respect of different injuries.

7. Notice in respect of an injury under this Act shall give the name and address of the persons injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business; and, if served by post, shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post; and, in proving the service of such notice, it shall be sufficient to prove that the notice was properly addressed and registered.

Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or, if there be more than one office, any one of the offices of such body.

A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy, and that the defect or inaccuracy was for the purpose of misleading.

Definitions.

8. For the purposes of this Act, unless the context otherwise requires,—

The expression "person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour:

The expression "employer" includes a body of persons corporate or unincorporate:

The expression "workman" means a railway servant and any person to whom the Employers and Workmen Act, 1875, applies.

36 & 37 Vict.
c. 50.

43 & 44 VICT. c. 42. iv.

9. This Act shall not come into operation until the first day of January one thousand eight hundred and eighty-one, which date is in this Act referred to as the commencement of this Act.

43 & 44 Vict.
CAP. 42.

Commence-
ment of
Act.

Short title.

10. This Act may be cited as the Employers' Liability Act, 1880, and shall continue in force till the thirty-first day of December one thousand eight hundred and eighty-seven, and to the end of the then next Session of Parliament, and no longer, unless Parliament shall otherwise determine, and all actions commenced under this Act before that period shall be continued as if the said Act had not expired.

RELIEF OF DISTRESS (IRELAND) AMENDMENT ACT, 1880.

43 & 44 Vict. Cap. 44. An Act to explain and amend Sections Seven, Thirteen, and Fourteen of the Relief of Distress (Ireland) Amendment Act, 1880.

[7th September, 1880.]

Provision
relating to
the Bandon
and Kil-
macsimon
railway or
tramway.
43 & 44 Vict.
c. 14.

4. Notwithstanding anything contained in the Relief of Distress (Ireland) Amendment Act, 1880, loans under the Thirteenth and following Sections of the said Act may be made to the railway or tramway from Bandon to Kilmacsimon, and tramway from Ahada to Cloyne, and Cloyne to Ballycotton, in the County of Cork, and to the Limavady and Dungiven Railway, in the County of Londonderry, and the railway from Ballywilliam to New Ross, in the County of Wexford.

COMMONABLE RIGHTS ACT, 1882.

45 Vict. Cap. 15. An Act to provide for the better application of Moneys paid by way of Compensation for the compulsory acquisition of Common Lands and extinguishment of Rights of Common.

[19th June, 1882.]

WHEREAS under the provisions of the Lands Clauses 8 & 9 Vict. Consolidation Act, 1845, and of railway and other c. 18. special Acts of Parliament, money is directed or authorised to be paid to a committee as compensation for the extinction of commonable rights or for lands, being common lands or in the nature thereof, the right to the soil of which belongs to the commoners :

And by the Lands Clauses Consolidation Act, 1845, 15 & 16 Vict. c. 79. and by the Inclosure Act, 1852, and the Inclosure Act, 17 & 18 Vict. c. 97. 1854, certain powers of apportioning and otherwise dealing with such money are conferred upon any such committee and upon the Inclosure Commissioners for England and Wales (hereinafter called the Commissioners), but such powers are found in practice to be insufficient, and money paid by way of compensation as aforesaid is often in consequence useless to the persons interested therein :

And whereas it is expedient to give such powers of dealing with such compensation money as are hereinafter specified, but such powers cannot be conferred without the sanction of Parliament :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the "Commonable Rights Short title. Compensation Act, 1882."

2. (1.) With respect to any money which has been Application of compensation money for common lands. or hereafter may be paid by any railway or other public company or corporate body or otherwise under the provisions of the Lands Clauses Act and any Act incorporated therewith, or of any other Act of Parliament to a committee of commoners as compensation for the extinguishment of commonable or other rights, or for lands being common lands or in the nature thereof the

45 VICT. c. 15. i.

45 VICT.
CAP. 15.

the right to the soil of which may belong to the commoners, the committee (or a majority in number thereof) or, after the expiration of twelve months from the payment of such money to the committee, any three of the persons claiming to be interested in such money may make application in writing to the Commissioners to call a meeting of the persons interested in such money to consider the application thereof, and the Commissioners shall call a meeting accordingly, and at such meeting the majority in number and the majority in respect of interest of the persons present may decide by resolution that such money shall be applied and laid out in one or more of the following ways :

- (a.) In the improvement of the remainder of the common land in respect of a portion of which such money has been paid ;
- (b.) In defraying the expense of any proceedings under the Metropolitan Commons Acts or under the Inclosure Acts, 1845 to 1878, with reference to a scheme for the local management, or a Provisional Order for the regulation of such common land, or of any application to Parliament for a Private Bill or otherwise for the preservation and management of such common land as an open space ;
- (c.) In defraying the expense of any legal proceedings for the protection of such common land, or the commoners' rights over the same ;
- (d.) In the purchase of additional land to be used as common land ;
- (e.) In the purchase of land to be used as a recreation ground for the neighbourhood ;

and any such resolution shall bind the minority and all absent parties, and the Commissioners shall make an order under their seal for the payment to them of any expenses incurred by them in relation to the matter, and (subject to such payment) for the application of the money according to such resolution, and the committee or the persons in whose names such money stands or is invested, or the survivors or survivor in account of such persons, or the legal personal representative of such survivor, shall, upon the service of any such order of the Commissioners as aforesaid upon them or any of them or any person on their behalf as the Commissioners may direct, pay and apply the said money or realise any security in which the same is invested, and pay and apply the proceeds thereof in manner directed by the said order.

45 VICT. c. 15. ii.

8 & 9 Vict.
c. 118., &c.

45 VICT.
CAP. 15.

(2.) Any land so purchased as aforesaid for use as common land shall be conveyed to and vest in trustees upon trusts for the persons interested, such trustees to be appointed, and such trusts, and the powers and duties of the trustees, and provisions for the appointment of new trustees from time to time to be declared and provided by an order under the seal of the Commissioners, pursuant to resolutions to be passed at a special meeting of the persons interested, convened by the said Commissioners by such majorities as aforesaid.

(3.) Every appointment of a new trustee or of new trustees, in pursuance of this Act, shall be subject to confirmation by the Commissioners under their seal, and upon such confirmation the land shall vest in the remaining and the newly appointed trustees without any conveyance.

(4.) The Commissioners shall publish such notice of any meeting held under this Act, and frame such rules and give such directions for the conduct of such meetings and the service of orders made by them under this Act as they may deem fit, and may, if they think fit, direct an assistant commissioner appointed by them to preside at any such meeting, and any such meeting may be adjourned from time to time.

(5.) Any land so purchased as aforesaid for use as recreation ground shall be conveyed to and vest in the local authority as specified in the schedule to this Act for the district within which such land is situate, and shall be held and managed by such local authority, subject to and in accordance with the provisions relating to recreation grounds respectively contained in the Inclosure Acts, 1845 to 1878.

3. Any moneys heretofore paid or hereafter to be paid by any railway or other public company or body corporate or otherwise under the provisions of the Lands Clauses Act, 1845, and any Act incorporated therewith, or of any other Act of Parliament, to any local authority as specified in the schedule to this Act, or to the churchwardens and overseers of a parish in respect of any recreation ground or allotment for field gardens taken under the powers of any such Act or Acts of Parliament shall be applied in manner provided by the Inclosure Acts, 1845 to 1878, as amended by the Commons Act, 1879, with respect to the surplus rents arising from recreation grounds and field gardens respectively.

Application
of compensation
money for
recreation
grounds
and field
gardens.

43 & 44 Vict.
c. 37.

4. In any case where money paid by way of com- Provision
45 VICT. c. 15. iii. for cases

45 VICE.
CAP. 15.

where money paid by way of compensation has already been applied in the manner authorised by this Act.

pensation as aforesaid has, before the passing of this Act, been applied in any one or more of the ways authorised by this Act, a resolution may be passed, at any meeting of the persons interested, called by the Commissioners in manner provided by this Act, by such majorities as aforesaid approving of such application, and such application shall, upon the allowance of such resolution by the Commissioners under their seal, be deemed to have been lawfully made under the provisions of this Act; and the committee or other persons by whom such money has been so applied shall thereupon be discharged from all liability in respect of such money so applied. And the provisions in this Act contained with respect to the declaration of trusts, and the powers and duties of trustees, and the appointment of new trustees, from time to time, shall apply in every case in which such money has, before the passing of this Act, been laid out in the purchase of land.

Deposit of orders.

5. Copies of all orders made by the Commissioners under this Act shall be deposited and kept in like manner as copies of an award are by the Inclosure Act, 1845, directed to be deposited and kept.

Exception of the New Forest.

6. This Act shall not extend to the New Forest.

SCHEDULE.

Situation of Land.	Local Authority.
Within the Metropolis .	The Metropolitan Board of Works.
Not within the Metropolis, but within the district of an urban sanitary authority, as defined by the Public Health Act, 1875, or any Act amending the same.	The urban sanitary authority.
Elsewhere than within the Metropolis or the district of an urban sanitary authority as above defined.	The churchwardens and overseers of the parish.

SETTLED LAND ACT, 1882.

45 & 46 Vict. Cap. 38. An Act for facilitating Sales, Leases and other dispositions of Settled Land, and for promoting the executing of Improvements thereon.

[10th August, 1882.]

VII.—IMPROVEMENTS.

Improvements with Capital Trust Money.

25. Improvements authorised by this Act are the making or execution on, or in connection with, and for the benefit of settled land, of any of the following works, or of any works for any of the following purposes, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes or for securing the full benefit of any of those works or purposes, namely (*inter alia*):

(XIV.) Tramways ; railways ; canals ; docks.

ELECTRIC LIGHTING ACT, 1882.

45 & 46 Vict. Cap. 56. An Act to facilitate and regulate the Supply of Electricity for Lighting and other purposes in Great Britain and Ireland.

[18th August, 1882.]

Restriction
on breaking
up of
private
streets,
railways,
and tram-
ways.

13. Nothing in this Act or in any Act incorporated therewith shall authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company, or person by whom such street, railway, or tramway is repairable, unless in pursuance of special powers in that behalf inserted in the license, order, or special Act, or with the written consent of the Board of Trade, and the Board of Trade shall not in any case insert any such special powers in any license or provisional order, or give any such consent until notice has been given to such authority, company, or person, by advertisement or otherwise, as the Board of Trade may direct, and an opportunity has been given to such authority, company, or person to state any objections they may have thereto.

Compensa-
tion for
damage.

17. In the exercise of the powers in relation to the execution of works given them under this Act, or any license, order, or special Act, the undertakers shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration.

POST OFFICE (PARCELS) ACT, 1882.

45 & 46 Vict. Cap. 74. An Act to amend the Post Office Acts with respect to the Conveyance of Parcels.

[18th August, 1882.]

WHEREAS the Postmaster General, with the consent of the Treasury, has made an arrangement with the railway companies named in the first schedule to this Act whereby the Postmaster-General will pay to the said railway companies and such other railway companies as become parties to the arrangement under this Act the remuneration to railway companies for services rendered by them in relation to the conveyance of parcels, and the said railway companies, through the medium of the London Railway Clearing Committee, will apportion such remuneration among the different railway companies, and such remuneration will consist of the sums hereinafter mentioned :

And whereas the Treasury propose, on the representation of the Postmaster General, to make regulations in pursuance of the Acts relating to the Post Office with respect to the posting, forwarding, conveyance, and delivery of parcels, and to provide that parcels of the weights mentioned in the second schedule to this Act shall be carried at the rates in that schedule mentioned, and on different conditions from ordinary postal packets :

And whereas it is expedient to make the provisions hereinafter appearing respecting such parcels and for carrying into effect the said arrangement :

And whereas the Bill for this Act has, so far as the same affects the railway companies named in the first schedule to this Act, been assented to by them :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Post Office (Parcels) Act, 1882. Short title

2. In the event of any regulations being made by the Treasury in pursuance of the Post Office Acts and providing for the conveyance of parcels by post on different Remuneration to railway companies for carriage of parcels.

45 & 46 VICT. c. 74. i.

45 & 46 VICT. C. 74. conditions from ordinary postal packets, the following provisions shall, subject to the provisions of this Act, have effect:

(1.) The Postmaster General shall from time to time pay to the railway companies parties to the arrangement under this Act the amount hereinafter mentioned as the remuneration of all railway companies in respect of the conveyance of parcels by such companies, and the amount so paid (in this Act referred to as the railway remuneration) shall be in substitution for any other remuneration in respect of the conveyance of such parcels, and every railway company shall render in respect of such parcels the services required by this Act, and shall accept the said payment in full satisfaction and discharge for the said services.

(2.) The amount of the railway remuneration shall be eleven-twentieth parts of the gross receipts of the Postmaster General from such of the said parcels as are conveyed by railway;

Provided that if at any time in pursuance of regulations of the Treasury the weights of or rates of postage for parcels differ from those mentioned in the second schedule to this Act, the railway companies parties to the arrangement under this Act may, by notice under the hand of the secretary to the London Railway Clearing Committee, require a revision of the amount of the railway remuneration, and the amount as determined on such revision shall be substituted for the above-mentioned eleven-twentieth parts of the gross receipts, subject nevertheless, in the event of any further change in the weights of or rates of postage for parcels, to another revision on notice requiring the same given either by the railway companies or by the Postmaster General, and so on from time to time.

(3.) In the case of a revision the amount of railway remuneration shall be a sum to be paid to the companies collectively in manner provided by this Act, and if such amount is not determined by agreement between the Postmaster General and the railway companies, parties to the arrangement under this Act, the amount shall be referred to arbitration in manner provided by this Act.

45 & 46 VICT. C. 74. ii.

- (4.) The provisions of this section (in this Act referred to as the arrangement under this Act) shall continue in force during a period of twenty-one years next after the said regulations come into operation, and thereafter until the expiration of twelve months' notice to determine the same given by the Postmaster General on the one side, or by the railway companies on the other, either before or after the expiration of the said twenty-one years.

45 & 46 VICT.
CAP. 74.

3. During the continuance of the arrangement under this Act the railway companies shall render the following services :—

Services to be rendered by railway companies.

- (1.) Every railway company shall convey by any train by which passengers, goods, or parcels are conveyed all such parcels as may be tendered for conveyance by such train, whether such parcels be under the charge of a person appointed by the Postmaster General or not, and notwithstanding that no notice has been given to the company with respect to the conveyance of such parcels :

Provided that the conveyance of parcels by mail and express trains shall be limited so as not to affect prejudicially the convenient and punctual working of those trains.

- (2.) Every railway company shall afford all reasonable facilities for the receipt and delivery of the sacks, hampers, boxes, or other receptacles containing the parcels at any of their stations without requiring them to be booked or interposing any other delay, and shall perform the service of transferring such sacks, hampers, boxes, or other receptacles to and from the vehicles of the Postmaster General at the outwards and inwards railway stations.
- (3.) Every railway company shall convey, free of charge, but in a manner convenient to them but not interfering with his custody of the parcels, any servant of the Postmaster General appointed to take charge of the parcels during their conveyance by railway ; but if such person during the conveyance receives any injury, and the company pay any sum for damages or costs in respect of such injury, or on account of death arising from such injury, the Postmaster General shall pay to the company one half of such sum, but if the

45 & 46 VICT.
CAP. 74.

conditions from ordinary postal packets, the following provisions shall, subject to the provisions of this Act, have effect :

(1.) The Postmaster General shall from time to time pay to the railway companies parties to the arrangement under this Act the amount hereinafter mentioned as the remuneration of all railway companies in respect of the conveyance of parcels by such companies, and the amount so paid (in this Act referred to as the railway remuneration) shall be in substitution for any other remuneration in respect of the conveyance of such parcels, and every railway company shall render in respect of such parcels the services required by this Act, and shall accept the said payment in full satisfaction and discharge for the said services.

(2.) The amount of the railway remuneration shall be eleven-twentieth parts of the gross receipts of the Postmaster General from such of the said parcels as are conveyed by railway;

Provided that if at any time in pursuance of regulations of the Treasury the weights of or rates of postage for parcels differ from those mentioned in the second schedule to this Act, the railway companies parties to the arrangement under this Act may, by notice under the hand of the secretary to the London Railway Clearing Committee, require a revision of the amount of the railway remuneration, and the amount as determined on such revision shall be substituted for the above-mentioned eleven-twentieth parts of the gross receipts, subject nevertheless, in the event of any further change in the weights of or rates of postage for parcels, to another revision on notice requiring the same given either by the railway companies or by the Postmaster General, and so on from time to time.

(3.) In the case of a revision the amount of railway remuneration shall be a sum to be paid to the companies collectively in manner provided by this Act, and if such amount is not determined by agreement between the Postmaster General and the railway companies, parties to the arrangement under this Act, the amount shall be referred to arbitration in manner provided by this Act.

- (4.) The provisions of this section (in this Act referred to as the arrangement under this Act) shall continue in force during a period of twenty-one years next after the said regulations come into operation, and thereafter until the expiration of twelve months' notice to determine the same given by the Postmaster General on the one side, or by the railway companies on the other, either before or after the expiration of the said twenty-one years.

45 & 46 VICT.
CAP. 74.

3. During the continuance of the arrangement under this Act the railway companies shall render the following services :—

Services to
be rendered
by railway
companies.


- (1.) Every railway company shall convey by any train by which passengers, goods, or parcels are conveyed all such parcels as may be tendered for conveyance by such train, whether such parcels be under the charge of a person appointed by the Postmaster General or not, and notwithstanding that no notice has been given to the company with respect to the conveyance of such parcels :

Provided that the conveyance of parcels by mail and express trains shall be limited so as not to affect prejudicially the convenient and punctual working of those trains.

- (2.) Every railway company shall afford all reasonable facilities for the receipt and delivery of the sacks, hampers, boxes, or other receptacles containing the parcels at any of their stations without requiring them to be booked or interposing any other delay, and shall perform the service of transferring such sacks, hampers, boxes, or other receptacles to and from the vehicles of the Postmaster General at the outwards and inwards railway stations.

- (3.) Every railway company shall convey, free of charge, but in a manner convenient to them but not interfering with his custody of the parcels, any servant of the Postmaster General appointed to take charge of the parcels during their conveyance by railway ; but if such person during the conveyance receives any injury, and the company pay any sum for damages or costs in respect of such injury, or on account of death arising from such injury, the Postmaster General shall pay to the company one half of such sum, but if the

45 & 46 VICT.
CAP. 74.



sum is paid by the company under agreement or by way of compromise of any claim, the Postmaster General shall not be liable to pay one half unless his written consent has been previously given to the payment of such sum.

(4.) If the parcels are in charge of a person appointed by the Postmaster General every railway company shall permit such person, if he thinks fit, by himself or his assistants, to deliver and receive the parcels at any station at which the train by which the sacks, hampers, boxes, or other receptacles containing the parcels are intended to be or are conveyed is appointed to stop and during the time limited for such stoppage, but nevertheless shall, if required by such person, assist him in transferring the sacks, hampers, boxes, or other receptacles to and from the vehicles of the Postmaster General.

(5.) Every railway company shall, if the Postmaster General so require, provide in every train, not being an express or mail train, a special parcels van or other separate accommodation for sorting parcels carried by such train, and the Postmaster General shall pay to such company in respect of the said van or accommodation such amount as may be agreed on, or, in case of difference, be determined by arbitration.

Calculation
of gross
receipts.

4. The gross receipts of the Postmaster General from parcels conveyed by railway for the purposes of this Act—

- (a.) shall be calculated without any deduction whether for the cost of stamps, or otherwise; and
- (b.) shall not include such extra charges (over and above the usual rate of postage) as may be from time to time fixed by the said regulations; and
- (c.) shall include the rates of postage which would be chargeable for government parcels, if they were sent by private persons, notwithstanding that the same may be conveyed without being stamped; and
- (d.) As regards foreign parcels shall be taken to be the same amount as would have been the gross receipts of the Postmaster General in respect of such parcels if they had been inland parcels of the same weight.

5. (1.) The Postmaster General shall from time to time, and at least once in every three months, and, within seven weeks after the expiration of the period to which such accounts respectively relate, render to the railway companies parties to the arrangement under this Act, through the medium of the London Railway Clearing Committee, such accounts as may be reasonably necessary to show the sums due to railway companies in respect of railway remuneration under this Act, and shall keep all such accounts as are reasonably necessary for that purpose, and shall afford reasonable inspection thereof to the secretary to the London Railway Clearing Committee on behalf of the railway companies, and shall as soon as may be, and at least within one week after the delivery of the account, pay to the railway companies through the medium of the said committee the amount appearing from the said accounts to be so due, and may pay the same out of the moneys for the time being to the credit of the Postmaster General at the Bank of England; but such payments shall be charged in the accounts of the Post Office to the gross receipts in respect of parcels.

5 & 46 VICT.
CAP. 74.

Payments to
Clearing
Committee.

(2.) The receipt of the secretary to the London Railway Clearing Committee shall be a full discharge for all sums paid by the Postmaster-General in respect of railway remuneration, and the Postmaster General shall not be required to take any part in or otherwise be responsible for the division amongst the railway companies of the amount so paid.

6. (1.) The railway companies parties to the arrangement under this Act shall from time to time apportion the railway remuneration received from the Postmaster-General among all the railway companies in accordance with the provisions set forth in the Third Schedule to this Act, which provisions shall have effect as if they were enacted in the body of this Act.

Apportion-
ment of
amount
received by
committee.

(2.) For the purpose of facilitating such apportionment the Postmaster General shall for one week in each half year keep, and within twenty-eight days thereafter deliver to the secretary to the London Railway Clearing Committee, records of the number of the parcels conveyed by railway and forwarded from the different post towns in the United Kingdom during the week for which such account shall be so kept.

7. During the continuance of the arrangement under this Act the following provisions shall have effect with reference to the parcels conveyed for the Postmaster General by railway companies :

Conditions
as to con-
veyance of
parcels by
railway.

45 & 46 VICT.
CAP. 74.



- (1.) He shall direct his officers from time to time to distribute, so far as practicable, the parcels between the different railways, so that the expenses to any railway company of carrying the parcels may, with due regard to the public convenience, be proportionate to that company's share of the receipts divisible among the railway companies under this Act :
- (2.) He shall direct his officers to secure so far as practicable the delivery of the parcels at the outwards railway station a reasonable time before the departure of the trains, and to be so far as practicable in attendance at the inwards station to meet on arrival any train by which parcels are expected to arrive :
- (3.) The parcels shall be placed by the officers of the Postmaster General for each separate railway station in sacks, hampers, boxes, or other receptacles, and in such reasonably convenient manner for delivery to and for transfer and conveyance by the railway companies as the Postmaster General may from time to time direct.
- (4.) The railway companies shall not be required to carry, under this Act, any such explosive or dangerous article as they, independently of this Act, for the time being refuse to carry as a parcel by passenger trains.
- (5.) The parcels shall, with regard to security and compensation for loss or otherwise, be treated as letters sent by post, and no company shall incur or be subject to any liability in respect of the conveyance or loss of or damage to any of the parcels, but the railway companies shall take all reasonable care for the security of the parcels while under their charge.

Arbitration
under Act.

8. Where during the continuance of the arrangement under this Act the amount of railway remuneration or other matter of difference between the Postmaster General and the railway companies parties to the said arrangement or any matter of difference between the Postmaster General and any single railway company or any company or person or persons owning any steam vessel in respect of any services under this Act, is in pursuance of this Act referred to arbitration, the arbitration shall be in accordance with the Railway Companies Arbitration Act, 1859, and the Acts amending the same, and where it is between the Postmaster General

23 & 24 Vict.
c. 59.

45 & 46 VICT. c. 74. vi.

and the companies parties to the arrangement under this Act shall be conducted in like manner as if the said companies were one party to the arbitration on the one side and the Postmaster General were a company party to the arbitration on the other side, and if each side appoints an arbitrator, one arbitrator only shall be appointed on behalf of the said companies under the hand of the secretary to the London Railway Clearing Committee.

45 & 46 VICT.
CAP. 74.

9. (1.) The following railway companies shall be deemed to be railway companies parties to the arrangement under this Act :—

Railway companies parties to arrangement and remuneration to company not party to arrangement.

- (a.) the railway companies named in the First Schedule to this Act ; and
- (b.) every railway company who in pursuance of this Act elects to become a party to the arrangement under this Act ; and
- (c.) as regards any railway authorised after the passing of this Act, the railway company working such railway.

(2.) Any railway company in the United Kingdom not being one of the parties to the arrangement under this Act may serve a notice in writing and under seal on the Postmaster General, and on the secretary to the London Railway Clearing Committee, expressing the desire of such company to become one of the parties to the arrangement under this Act, and upon the service of such notice the company shall be deemed to have elected to become one of the parties to the arrangement under this Act.

(3.) Any railway company in the United Kingdom not being one of the parties to the arrangement under this Act shall, nevertheless, when required by the Postmaster General, render the services with respect to the conveyance of parcels which are required by this Act to be rendered by railway companies, and shall be entitled as remuneration for such services to receive from the railway companies parties to the arrangement under this Act the proper proportion of the railway remuneration, and if a difference arises with respect to the amount of such remuneration and is not determined by agreement between such company and the railway companies parties to the arrangement under this Act, acting through the medium of the London Railway Clearing Committee, the difference shall be referred to arbitration ; and the award on such arbitration shall determine the difference and the amount due to such company in respect of the said services, and such amount shall be paid out of the railway remuneration

45 & 46 VICT.
CAP. 74.

by the railway companies parties to the arrangement under this Act :

Provided that where a railway company is not one of the parties to the arrangement under this Act, nothing in this section shall authorise the Postmaster-General to require such company to carry parcels on any railway worked by such company on which the company does not carry any parcels traffic within the meaning of the Third Schedule to this Act.

(4.) An arbitration under this section shall be conducted in accordance with the Railway Companies Arbitration Act, 1859, and any Act amending the same, in like manner as if the companies parties to the arrangement under this Act were one party to the arbitration, but the arbitrator shall, on application under the hand of the secretary to the London Railway Clearing Committee, be appointed by the Lord Chief Justice of England, but if no such application is made and each side appoints an arbitrator, one arbitrator only shall be appointed on behalf of the companies parties to the arrangement under this Act under the hand of the secretary to the London Railway Clearing Committee.

Application
of law upon
determina-
tion of
arrange-
ment under
this Act.

10. Upon the determination of the arrangement under this Act the enactments then in force in relation to the conveyance of other postal packets by railway, and the remuneration to be paid for the services of the railway companies as regards such conveyance, and the determination of such remuneration (in the absence of agreement) by arbitration, shall apply in the case of parcels in like manner as in the case of other postal packets.

Saving of
existing
rights.

11. Nothing in this Act shall in any way prejudice or affect on the one hand the rights or powers of any railway company, either in the conveyance of parcels for the public on the company's own account, or the charges or conditions to be made or imposed in respect of such conveyance, or on the other hand the right of the Postmaster General under his power with respect to the conveyance of mails by railway, and every company shall be entitled to be paid for all services in respect of the conveyance of mails other than parcels wholly irrespective of and without reference to the provisions of this Act.

Mode of
acting by
Postmaster
General and
Clearing
Committee.

12. (1.) Every agreement under this Act by the Postmaster General shall, in accordance with the Post Office Acts, be made with the consent of the Treasury.

(2.) Any notice or document required for the pur-
45 & 46 VICT. c. 74. viii.

poses of this Act to be served on the Postmaster General may be served by the delivery thereof to the Postmaster General or to any of the secretaries or assistant secretaries to the Post Office, or by sending the same by post addressed to the Postmaster General at the General Post Office.

45 & 46 VICT.
CAP. 74.

(3.) For any purpose connected with railway remuneration in pursuance of the arrangement under this Act, any notice or document to be given or served to, on, or by the railway companies parties to the arrangement under this Act shall be given or served to, on, or by the secretary to the London Railway Clearing Committee, and the railway companies parties to the arrangement under this Act may collectively sue and be sued in the name of the said secretary; and during the continuance of the arrangement under this Act, the Postmaster General in dealing (for the purposes of railway remuneration) with the railway companies parties to the arrangement under this Act may deal only with such companies collectively through the medium of the London Railway Clearing Committee, and shall not be required to deal, as regards railway remuneration, with any of such companies individually.

(4.) All accounts to be rendered or notices given to or served on the railway companies with reference to railway remuneration shall be rendered, given, or served by sending the same through the post to, or leaving the same at, the office of the London Railway Clearing Committee, addressed to the secretary to such committee.

13. Where any railway company own or work any steam vessel, the provisions contained in this Act with respect to the conveyance of parcels by railway shall, so far as they are applicable, extend to the conveyance of parcels by such steam vessels, and the expressions in this Act shall be construed accordingly; and expressions referring to railway stations shall refer to places where steam vessels depart, call, or arrive:

Application
of Act to
steam
vessels.

Provided that where any such steam vessel carries on communication between a port in the United Kingdom and any place out of the United Kingdom, the remuneration for services rendered by such steam vessel in respect of the conveyance of parcels shall not be included in the railway remuneration, but shall be such as may be determined by agreement between the Postmaster General and the Company owning or working the steam vessel, or in case of difference be determined by arbitration, and the amount so de-

45 & 46 VICT.
CAP. 74.

terminated shall be paid direct to the company, and the parcels conveyed by such steam vessel shall not, in respect of that conveyance, be deemed to be parcels conveyed by railway.

Where any steam vessel carries on regular communication between a port in the United Kingdom and any other port or place within the United Kingdom, or is a home-trade ship as defined by the Merchant Shipping Act, 1854, and such steam vessel is neither owned nor worked by any railway company, the company or person or persons by whom such steam vessel is owned or worked shall, from and after the passing of this Act, be bound to convey parcels; and the remuneration due for the services rendered by such steam vessel, in respect of the conveyance of parcels, shall be determined by agreement between the Postmaster General and the company or person or persons owning or working such steam vessel, or in case of difference such remuneration shall be determined by arbitration, and the amount so determined shall be paid direct to such company or person or persons, and the parcels conveyed by such steam vessel shall not in respect of that conveyance be deemed to be parcels conveyed by railway.

Application
of Customs
Acts to
foreign
parcels.

14. (1.) Subject to any exceptions and modifications made by regulations under this section, the provisions of the Acts for the time being in force relating to the Customs (in this Act referred to as Customs enactments) shall apply to goods contained in foreign parcels, in like manner, so far as is consistent with the tenor thereof, as they apply to any other goods; and persons may be punished for offences against the said enactments, and goods may be examined, seized, and forfeited, and the officers examining and seizing them shall be protected, and legal proceedings in relation to the matters aforesaid may be taken, accordingly under the said enactments.

(2.) The Treasury, on the recommendation of the Commissioners of Customs and the Postmaster General, may from time to time make, and, when made, revoke and vary, regulations for the purpose of modifying or excepting the application of any of the Customs enactments to foreign parcels, and for the purpose of securing, in the case of such parcels, the observance of the Customs enactments, and for enabling the officers of the post-office to perform, for the purpose of those enactments and otherwise, all or any of the duties of the importer and exporter, and for carrying into effect

any treaty, convention, or arrangement with any foreign State or the government of any British possession with reference to foreign parcels, and for punishing any contravention of the Customs enactments or of the regulations under this section.

45 & 46 VICT.
CAP. 74.

(3.) The Postmaster General shall have the same right of recovering any sums paid, in pursuance of the Customs enactments or otherwise under the said regulations, in respect of any foreign parcel, as he would have if the sum so paid were a rate of postage.

(4.) A contravention of the regulations in force under this section shall be deemed to be a contravention of the Customs enactments, and shall involve accordingly the like punishment of persons guilty thereof, and the like forfeiture of goods.

15. This Act shall apply to the Channel Islands and Isle of Man as if they were part of the United Kingdom, subject to the following provisions :—

Application
of Act to
Channel
Islands and
Isle of Man.

(1.) Save as provided by regulations made under this section, it shall not be lawful, by means of any inland parcel, to export or remove from the Channel Islands or Isle of Man, or import or bring into the United Kingdom, or to export or remove from the United Kingdom or import or bring into the Channel Islands or Isle of Man, any goods on the exportation, importation, removal, or bringing in of which there is for the time being any prohibition or restriction, or any Customs duty payable.

(2.) Regulations under this section may be made for permitting and regulating the exportation, importation, removal, or bringing in of any such goods as above mentioned, to the extent provided by the regulations.

(3.) Subject to any exceptions or modifications made by the regulations under this section, the provisions of this Act with respect to the application of the Customs enactments to foreign parcels shall apply in like manner as if the inland parcels sent between the United Kingdom, Channel Islands, and the Isle of Man were foreign parcels, and for the purpose of such application any goods for the time being prohibited by this section from being imported, exported, brought in, or removed shall be deemed to be so prohibited by the said Customs enactments.

45 & 46 VICT.
CAP. 74.

- (4.) The Treasury may from time to time, on the recommendation of the Commissioners of Customs and the Postmaster General, make and, when made, revoke and vary, regulations for carrying into effect this section.
- (5.) All laws of those islands punishing offences committed in relation to post letters or post letter bags shall apply as if parcels were post letters, and sacks, hampers, boxes, and other receptacles containing parcels were post letter bags.

Application
of Post
Office Acts.
7 Will. 4. &
1 Vict. c. 36.

16. This Act shall be deemed to be a Post Office Act within the meaning of the Post Office (Offences) Act, 1837, and, subject to the provisions of this Act, the Post Office Acts shall apply to parcels within the meaning of this Act in like manner as they apply to other postal packets.

Definitions.

17. In this Act, unless the context otherwise requires—

The expression "British possession" does not include the Channel Islands or the Isle of Man, but includes all other territories and places forming part of Her Majesty's dominions.

The expression "parcel" means all such postal packets as by regulations of the Treasury made in pursuance of the Post Office Acts are defined to be parcels :

The expression "inland parcels" means parcels posted within the United Kingdom and addressed to some place in the United Kingdom :

The expression "foreign parcels" means parcels either posted in the United Kingdom and sent to a place out of the United Kingdom, or posted in a place out of the United Kingdom and sent to a place in the United Kingdom, or in transit through the United Kingdom to a place out of the United Kingdom :

The expression "railway company" means any person or body of persons corporate or unincorporate working a railway :

The expression "Treasury" means the Commissioners of Her Majesty's Treasury :

The expression "London Railway Clearing Committee" means the Clearing Committee mentioned in the Railway Clearing Act, 1850.

13 & 14 Vict.
c. xxxiii.

FIRST SCHEDULE.

RAILWAY COMPANIES PARTIES TO ARRANGEMENT.

Aylesbury and Buckingham.
 Ballycastle.
 Ballymena and Larne.
 Belfast and County Down.
 Belfast and Northern Counties.
 Belfast, Holywood and Bangor.
 Bishop's Castle.
 Brecon and Merthyr Tydvil Junction.
 Bristol Port Railway and Pier.
 Caledonian.
 Cambrian.
 Central Wales and Carmarthen Junction.
 Cheshire Lines Committee.
 City of Glasgow Union.
 Cleator and Workington Junction.
 Cockermouth, Keswick and Penrith.
 Colne Valley and Halstead.
 Cork and Bandon.
 Cork, Blackrock and Passage.
 Cornwall, the lessees of.
 Dublin, Wicklow and Wexford.
 East and West Junction.
 Fleetwood, Preston and West Riding.
 Finn Valley.
 Furness.
 Garstang and Knotend.
 Glasgow and South Western.
 Great Eastern.
 Great North of Scotland.
 Great Northern.
 Great Northern, Ireland.
 Great Southern and Western of Ireland.
 Great Western.
 Gwendraeth Valleys.
 Highland.
 Lancashire and Yorkshire.
 Liskeard and Caradon.
 London and North Western.
 London and South Western.
 London, Brighton and South Coast.
 London, Chatham and Dover.
 London, Tilbury and Southend.
 Londonderry and Lough Swilly.
 Lynn and Fakenham.
 Macclesfield Committee.
 Manchester and Milford.
 Manchester, Sheffield and Lincolnshire.
 Manchester, South Junction, and Altrincham.
 45 & 46 VICT. c. 74. xiii.

Maryport and Carlisle.
 Midland.
 Midland Great Western of Ireland.
 Mid Wales.
 Neath and Brecon.
 Newry, Warrenpoint and Rostrevor.
 Northampton and Banbury Junction.
 North British.
 North Eastern.
 North London.
 North Staffordshire.
 Oldham, Ashton-under-Lyne, and Guide Bridge Junction.
 Pembroke and Tenby.
 Portpatrick.
 Preston and Wyre, the lessees of.
 Rhymney.
 Severn and Wye and Severn Bridge.
 Shetfield and Midland Railway Company's Committee.
 Sligo, Leitrim and Northern Counties.
 South Eastern.
 Southwold.
 Swindon, Marlborough and Andover.
 Taff Vale.
 Tendring Hundred.
 Waterford and Central Ireland.
 Waterford and Limerick.
 Waterford and Tranmore.
 Waterford, Dungarvan and Lismore.
 Watlington and Prince's Risborough.
 West Lancashire.
 West Riding and Grimsby.
 Wigtownshire.
 Wrexham, Mold and Connah's Quay.

SECOND SCHEDULE.

WEIGHTS AND RATES OF PARCELS.

For an Inland Parcel of a Weight	The rate of Postage shall be
Not exceeding 1 lb.	3d.
Exceeding 1 lb. and not exceeding 3 lbs.	6d.
Exceeding 3 lbs. and not exceeding 5 lbs.	9d.
Exceeding 5 lbs. and not exceeding 7 lbs.	1s.

THIRD SCHEDULE.

APPORTIONMENT AMONG THE RAILWAY COMPANIES.

1. All sums paid by the Postmaster-General under this Act to the railway companies parties to the arrangements under this Act shall be apportioned amongst the railway companies entitled to share therein by the London Railway Clearing Committee half-yearly up to the thirtieth day of June and the thirty-first day of December in each year, or to such other half-yearly days as the parcels accounts between the companies may for the time being be made up by the London Railway Clearing Committee.

2. The share of each railway company shall bear the same ratio to the whole sum divisible as that company's gross receipts from local and through parcels traffic for each half-yearly period bear to the gross receipts from local and through parcels traffic of all the companies for the same period: Provided that where upon an arbitration with any company not a party to the arrangement under this Act any sum is awarded to be paid to such company, such sum shall be so paid in lieu of the share ascertained as aforesaid.

Each company shall render to the London Railway Clearing Committee the necessary returns of their parcels traffic certified by their accountant, such returns to be subject to audit and inspection of books by the London Railway Clearing Committee.

3. If at any time after the expiration of three years from the passing of this Act, or if at any time in pursuance of regulations of the Treasury the weights or rates of postage for parcels differ from those mentioned in the Second Schedule to this Act, any one or more of the companies consider that the apportionment of the receipts from parcels traffic above provided by this Act (hereinafter called "the prescribed apportionment") is inequitable, such company or companies (without prejudice to any right conferred by this Act on a company not represented by the committee) may forward to the London Railway Clearing Committee a statement in writing of the grounds of objection to the prescribed apportionment, and thereupon the following provisions shall have effect:

(a.) The secretary to the London Railway Clearing Committee shall convene a special meeting of the general managers of the railway companies parties to the arrangement under this Act (hereinafter called "the conference") for the purpose of taking such statement into consideration, and shall give not less than fourteen days' notice of such special meeting.

(b.) The conference shall at such special meeting take the

said statement into consideration and determine by a majority of its members present at such meeting whether a *prima facie* case has been shown for altering the prescribed apportionment.

- (c.) If the conference determine that a *prima facie* case has not been shown for altering the prescribed apportionment no further proceedings shall be taken, and the prescribed apportionment shall continue in force until further complaint be made under this article.
- (d.) If the conference determine that a *prima facie* case has been shown for altering the prescribed apportionment, it shall proceed either at such meeting or any adjournment or adjournments thereof, or at any other meeting specially convened for the purpose as hereinbefore provided, to consider a fair and equitable revision of the prescribed apportionment.
- (e.) The conference may by a majority of its members present at any such meeting and representing companies whose aggregate share capital is for the time being not less than three fourths of the aggregate share capital represented at such meeting determine upon a revision of the prescribed apportionment.
- (f.) If the conference, for the space of three months after they have decided that *prima facie* case for revision has been shown, fail to determine by the requisite majority upon a revision of the prescribed apportionment, then the question of revising the prescribed apportionment shall be referred to an arbitrator appointed under this schedule, who shall have power to determine whether any, and if any, what revision of the prescribed apportionment is required to remedy any inequality or injustice which may in his opinion be established upon due inquiry before him.
- (g.) The conference or the arbitrator shall, in considering a revision of the prescribed apportionment, have power to deal with any complaint of inequality or injustice which may be submitted to them or him by any of the companies, and may adopt in revising the prescribed apportionment such basis of division or such data as to them or him shall seem just.
- (h.) Any decision of the conference or of the arbitrator shall be final and conclusive upon the companies, and shall, unless any further alteration is made in the weights and rates of postage of the parcels in pursuance of regulations of the Treasury, continue in force for the period of three years and

thereafter until any further complaint shall be made under this enactment.

- (4.) The selection by the Postmaster General of any route or routes for the transmission of parcels in preference to any competing route or routes shall in no case be a reason for revising the prescribed apportionment.

4. Parcels traffic for the purposes of the apportionment shall (unless and till otherwise determined by the conference, who shall have power to add to or take from the following list of excepted articles), include all such traffic as according to the practice for the time being of the London Railway Clearing Committee is included in that expression, except—

Mails, other than parcels; fish, meat, and poultry for markets; milk; carriages; cattle, horses, dogs, and other animals; corpses; and specie.

5. The conference shall have power from time to time to make and, if necessary, to revoke and alter all such rules and regulations as may be necessary for the purpose of giving full effect to this Act with respect to—

- (a.) The forms to be used by the companies in dealing with parcels traffic as above defined;
- (b.) The returns to be made by the companies for the purposes of this Act;
- (c.) The verification of any such returns; and
- (d.) Any matters of detail necessary or proper for carrying this schedule into effect;

and all such rules and regulations shall be binding on the companies.

6. The arbitrator to determine any question between the companies under the provisions of this schedule shall be appointed when such question arises by the Lord Chief Justice of England, on the application of the London Railway Clearing Committee, and the Railway Companies Arbitration Act, 1859, shall apply to any such arbitration.

LANDS CLAUSES (UMPIRE) ACT, 1883.

46 Vict. cap. 15. An Act to amend the Land
Clauses Consolidation Act, 1845.

[18th June, 1883.]

8 & 9 Vict.
c. 12.

WHEREAS it is expedient that the provisions contained in the Lands Clauses Consolidation Act, 1845, in relation to the appointment of umpires should be amended:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amend-
ment of s.
28 of 8 Vict.
c. 12, ex-
tending the
power of
appoint-
ment of
umpire by
Board of
Trade.

1. The following words in section twenty-eight of the Lands Clauses Consolidation Act, 1845, are hereby repealed, that is to say, "in any case in which a railway company shall be one party to the arbitration, and two justices in any other case," and that section shall, in relation to the appointment of any umpire under the provisions thereof after the passing of this Act, apply as if such words were omitted, and the same section shall accordingly be read and have effect as follows:

28. If in either of the cases aforesaid the said arbitrators shall refuse or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

Short title.

2. This Act may be cited as the Lands Clauses (Umpire) Act, 1883.

COMPANIES ACT, 1883.

46 & 47 Vict. cap. 28. An Act to amend the Companies Acts, 1862 and 1867.

[20th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as the **Short title.**
Companies Act, 1883.

2. This Act shall, so far as is consistent with the **Construction of Act.**
terms thereof, be construed as one with the Companies Acts, 1862 and 1867.

3. This Act shall come into force on the first day of **Commence-**
September one thousand eight hundred and eighty-**ment of**
three. **Act.**

4. In the distribution of the assets of any company **Wages and**
being wound up under the Companies Acts, 1862 and **salary to be**
1867, there shall be paid in priority to other debts,— **preferential**
claims.

(a.) All wages or salary of any clerk or servant in
respect of service rendered to the company
during four months before the commencement
of the winding up not exceeding fifty pounds;
and

(b.) All wages of any labourer or workman in
respect of services rendered to the company
during two months before the commencement
of the winding up.

5. The foregoing debts shall rank equally among **Such**
themselves, and shall be paid in full, unless the assets **claims to**
of the company are insufficient to meet them, in which **rank**
case they shall abate in equal proportions between **equally.**
themselves.

6. Subject to the retention of such sums as may be **Liquidator**
necessary for the costs of administration or otherwise, **to discharge**
the liquidator or liquidators or official liquidator shall **same upon**
discharge the foregoing debts forthwith, so far as the **receipt of**
assets of the company are and will be sufficient to **sufficient**
meet them, as and when such assets come into the **assets.**
hands of such liquidator or liquidators or official
liquidator.

46 & 47 VICT. c. 28. i.

CHEAP TRAINS ACT, 1883.

46 & 47 Vict. cap. 34. An Act to amend the Law relating to Railway Passenger Duty, and to amend and consolidate the Law relating to the conveyance of the Queen's Forces by Railway.
[20th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title. 1. This Act may be cited as the Cheap Trains Act, 1883.

Abolition of passenger duty for cheap trains, and reduction on urban traffic.

2. After the commencement of this Act the duties now payable in respect of passengers conveyed for hire on a railway shall, subject to the provisions of this Act, be varied as follows :

- (1.) Fares not exceeding the rate of one penny a mile shall be exempt from duty ; but fares for return or periodical tickets shall be exempt from duty only where the ordinary fare for the single journey does not exceed that rate :
- (2.) Duty shall be payable at the rate of two per cent. on fares exceeding the rate of one penny a mile for conveyance between railway stations within one urban district certified so to be in manner provided in this section.
- (3.) Where the Board of Trade are satisfied that any two or more railway stations are within an area which has a continuous urban as distinguished from a rural or suburban character, and contains a population of not less than one hundred thousand inhabitants, the Board of Trade may certify that those stations are within one urban district for the purposes of this Act. The Board of Trade may from time to time and at any time rescind or vary any certificate given by them under this section.

Provision for proper third-class accommodation and workmen's trains.

3. (1.) If at any time the Board of Trade have reason to believe—

(a.) that upon any railway or part of a railway or upon any line or system of railways, whether belonging to one company or to two or more

46 & 47 VICT. c. 34. i.

companies, which forms a continuous means of communication, a due and sufficient proportion of the accommodation provided by such company or companies is not provided for passengers at fares not exceeding the rate of one penny a mile : or

46 & 47 VICT.
CAP. 34.

- (b.) That upon any railway carrying passengers proper and sufficient workmen's trains are not provided for workmen going to and returning from their work at such fares and at such times between six o'clock in the evening and eight o'clock in morning as appear to the Board of Trade to be reasonable,

then and in either case the Board of Trade may make such inquiry as they think necessary, or may, if required by the company or any of the companies concerned, refer the matter for the decision of the Railway Commissioners, who shall have the same power therein as if it had been referred to their decision in pursuance of the Regulation of Railways Act, 1873.

(2.) If on an inquiry under this Act it is proved to the satisfaction of the Board of Trade or the Railway Commissioners, as the case may be, that such proper and sufficient accommodation or workmen's trains as aforesaid are not provided by any railway company, the Board of Trade or the Railway Commissioners, as the case may be, may order the company to provide such accommodation or workmen's trains at such fares as, having regard to the circumstances, may appear to the said Board or the Commissioners to be reasonable.

(3.) If any company on whom an order is made under this Act to provide proper and sufficient accommodation or workmen's trains refuse, or at any time after the expiration of one month from the making thereof, neglect to comply with the order, the Board of Trade shall issue a certificate to that effect to the Commissioners of Inland Revenue, and after the date of such certificate the company shall lose the benefit of this Act and be liable to pay in respect of the fares received after such date the same amount of passenger duty as would be payable if the passenger duty had not been varied as provided by this Act, and shall continue so liable in respect of all fares received up to the date at which the Board of Trade certify that the company has complied with the said order. Where two or more companies are concerned, the certificate shall state whether both or all, or one or more and which of them is in default.

46 & 47 VICT. C. 34. ii.

46 & 47 VICT.
CAP. 34.

(4.) A company on whom an order is made by the Board of Trade under this section may within six months after the making of the order appeal to the Railway Commissioners, who shall have the same power in the matter as if it had been originally referred to their decision.

(5.) The Board of Trade or the Railway Commissioners, as the case may be, may rescind or vary any order made by them under this section.

Provision
as to
special
mileage
and excep-
tional
charges.

4. (1.) Where any Act of Parliament allows a number of miles greater than the actual number of miles to be reckoned for the purpose of calculating the fares on any part of a railway, the mileage so allowed shall be deemed for the purposes of this Act to be the mileage of that part of the railway.

(2.) Where any Act of Parliament allows special or exceptional charges upon any part of a railway, that part shall for the purpose of calculating fares under this Act be deemed to be a separate railway.

Proviso as
to fractions
of miles.
21 & 22 Vict.
c. 75.

5. For the purposes of this Act fares shall not be deemed to exceed the rate of one penny a mile which do not exceed one penny for a single journey of any distance less than a mile, or, where the distance travelled, being more than one mile, is any number of complete half-miles and a fraction not less than a quarter of a mile, do not exceed one halfpenny for every half-mile, and one halfpenny for the fraction; but for a child between three and twelve years of age the fare shall not exceed half an adult's fare, and children under three years of age shall be conveyed free of charge: Provided that a railway company shall not be bound to charge less than one penny to any person over three years of age for any single journey.

Any charge or fare which by any local and personal Act relating to any railway is declared to be a charge or fare consistent with the provisions of the enactments relating to passenger duty which are repealed by this Act shall be deemed for the purposes of this Act to be a fare not exceeding the rate of one penny a mile.

Conveyance
of the
Queen's
forces at
reduced
rates.

6. (1.) For the purpose of moving by railway on any occasion of the public service—

- (a.) any of the officers or men in or belonging to Her Majesty's navy, or royal naval volunteers, and any other officers or men under the command or government of the Admiralty; and
- (b.) any of the officers or soldiers in Her Majesty's regular reserve or auxiliary forces (within the meaning of the Army Act, 1881, or any Act

46 & 47 VICT. C. 34. iii.

amending the same) for the time being sub-^{46 & 47 VICT.}
ject to military law ; and ^{CAP. 34.}

- (c.) any officers or men of any police force ;
(all and any of which officers, soldiers, and men are
in this Act called "the forces") ;

every railway company shall, on the production of a route duly signed for the conveyance of the forces, provide conveyance for them and their personal luggage, and also for any public baggage, stores, arms, ammunition, and other necessities and things, whether actually accompanying the forces or not, at all usual times at which passengers are conveyed by the company, on such terms as may be agreed on between the railway company and the Secretary of State, Admiralty, or police authority, and subject to or in default of agreement on the following terms :—

- (i.) The passenger carriages provided shall be of such classes in use on the railway, and in such proportions, as specified in the route, all carriages being protected from the weather and having proper accommodation :
- (ii.) The fares shall not exceed the following proportions of the fares charged to private passengers for the single journey by ordinary train in the respective classes of carriages specified in the route, that is to say, if the number of persons conveyed is less than one hundred and fifty, three-fourths ; and if the number is one hundred and fifty or more, then for the first one hundred and fifty, three-fourths, as for four officers and one hundred and forty-six soldiers or other persons ; and for the numbers in excess of the said one hundred and fifty, one half :
- (iii.) This section shall apply to such wives, widows, and children of members of the forces as are entitled to be conveyed at the public expense, in like manner as if they were part of the forces, but children less than three years old shall be conveyed free of charge, and the fare for a child more than three and less than twelve years old shall be half the fare payable under this section for an adult :
- (iv.) One hundredweight of personal luggage shall be conveyed by the railway company free of charge for every one conveyed under this section who is required by the route to be conveyed first-class, and half a hundredweight

46 & 47 VICT.
CAP. 34.

for every other person conveyed; and any excess of weight shall be conveyed at not more than two-thirds of the rate charged to the public for excess luggage:

(v.) The said public baggage, stores, arms, ammunition, necessaries, and things shall be carried at rates not exceeding twopence per ton per mile, the assistance of the forces to be given when available in loading and unloading the same:

(vi.) Provided that the company shall not be bound under this section to carry gunpowder or other explosive or combustible matters except on terms agreed upon between the company and the Admiralty or one of Her Majesty's Principal Secretaries of State, as the case may be:

(2.) For the purposes of this section a route duly signed shall be deemed to be a route issued and signed in accordance with section one hundred and three of the Army Act, 1881, or an order signed by a person authorised in this behalf by one of Her Majesty's Principal Secretaries of State, or a route or order signed by a person authorised in this behalf by the Admiralty, or, as regards the police, a route or order signed by a person authorised in this behalf by the police authority.

(3.) Fares payable under this section shall be exempt from passenger duty.

(4.) Where a company has by refusal or neglect to comply with an order of the Board of Trade or the Railway Commissioners lost the benefit of this Act, that company shall, until its compliance is certified as in this Act provided, be exempt from the provisions of this section, but shall be bound to convey all such persons, and things as mentioned in this section on the same terms as if this Act had not been passed.

7. The Act of the fifth and sixth years of Her Majesty's reign, chapter seventy-nine, intituled "An Act to repeal the duties payable on stage carriages and on passengers conveyed upon railways and certain other stamp duties in Great Britain, and to grant other duties in lieu thereof, and also to amend the laws relating to the stamp duties," is hereby amended in the following respects:—

(a.) In lieu of the affidavit required by section four of the said Act in verification of accounts rendered for the purposes of railway passenger duty, every such account shall be certified to be a full and true account under the hand

46 & 47 VICT. c. 34. v.

Amend-
ment of
5 & 6 Vict.
c. 79. ss. 4
& 7.

of the person by whom the affidavit would have been made if this Act had not been passed.

46 & 47 VICT.
CAP. 34.

- (b.) The Commissioners of Inland Revenue may, at their discretion, dispense with the security by bond required by section seven of the said Act.

8. In this Act, unless a contrary intention appears from the context—

The term "fare" includes all sums received or charged for the hire, fare, or conveyance of passengers upon or along any railway :

The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any Act of Parliament :

The term "the Admiralty" means the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral :

The term "police force" means the police force of the metropolitan police district or any county, borough, or place maintaining a separate police force :

The term "police authority" means the Secretary of State, quarter sessions, watch committee, police committee, police commissioners, or other authority having the management of a police force.

Anything which the Board of Trade is by this Act empowered or required to do may be done by writing under the hand of the President or Secretary or one of the Assistant Secretaries of the Board.

9. This Act shall come into operation on the first day of October, one thousand eight hundred and eighty-three, which day is in this Act referred to as the commencement of this Act.

Commence-
ment of
Act.

10. Without prejudice to anything done or suffered or any right acquired or liability incurred before the commencement of this Act, the Acts specified in the Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent specified in the third column of the Schedule, except so far as such Acts apply to Ireland, and except as respecting the conveyance of forces by companies who lose the benefit of this Act.

Repeal.

11. This Act shall not extend to Ireland.

Extent of
Act.

SCHEDULE.

Session and chapter.	Title	Extent of Repeal.
5 & 6 Vict. c. 55.	An Act for the better regulation of railways and for the conveyance of troops.	Section 20.
7 & 8 Vict. c. 85.	An Act to attach certain conditions to the construction of future railways authorised or to be authorised by any Act of the present or succeeding sessions of Parliament; and for other purposes in relation to railways.	Sections 6, 7, 8, 9, 10, and 12.
16 & 17 Vict. c. 69.	An Act to make better provision concerning the entry and service of seamen, and otherwise to amend the laws concerning Her Majesty's Navy.	Section 18.
21 & 22 Vict. c. 75.	An Act to amend the law relating to cheap trains, and to restrain the exercise of certain powers by canal companies being also railway companies.	Sections 1 and 2.
26 & 27 Vict. c. 33.	An Act for granting to Her Majesty certain duties of inland revenue; and to amend the laws relating to the inland revenue.	Section 14.

STATUTE LAW REVISION ACT, 1883.

46 & 47 Vict. cap. 39. An Act for further promoting the Revision of the Statute Law by repealing certain Enactments which have ceased to be in force or have become unnecessary.

[25th August, 1883.]

WHEREAS, with a view to the revision of the Statute Law, and particularly to the continuation of the revised edition of the Statutes, it is expedient that certain enactments (mentioned in the schedule to this Act) which may be regarded as spent, or have ceased to be in force otherwise than by express and specific repeal by Parliament, or have, by lapse of time or otherwise, become unnecessary, should be expressly and specifically repealed :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The enactments described in the schedule to this Act are hereby repealed, subject to the exceptions and qualifications in the schedule mentioned :

Enactments
in schedule
repealed.

Provided that where any enactment not comprised in the schedule has been repealed, confirmed, revived, or perpetuated by any enactment hereby repealed, such repeal, confirmation, revivor, or perpetuation shall not be affected by the repeal effected by this Act :

Saving.

and the repeal by this Act of any enactment or schedule shall not affect any enactment in which such enactment or schedule has been applied, incorporated, or referred to ;

nor shall such repeal of any enactment affect any right to any hereditary revenues of the Crown, or affect any charges thereupon, or prevent any such enactment from being put in force for the collection of any such revenues, or otherwise in relation thereto ;

and this Act shall not affect the validity, invalidity, effect, or consequences of anything already done or suffered,—or any existing status or capacity,—or any right, title, obligation, or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof,—or any release or discharge of or from

46 & 47 VICT. c. 39. 1.

46 & 47 VICT. CAP. 39. any debt, penalty, obligation, liability, claim, or demand,
—or any indemnity,—or the proof of any past act or thing :

nor shall this Act affect any principle or rule of law or equity, or established jurisdiction, form or course of pleading, practice, or procedure, or existing usage, franchise, liberty, custom, privilege, restriction, exemption, office, appointment, payment, allowance, emolument, or benefit, notwithstanding that the same respectively may have been in any manner affirmed, recognised, or derived by, in, or from any enactment hereby repealed ;

nor shall this Act revive or restore any jurisdiction, office, duty, drawback, fee, payment, franchise, liberty, custom, right, title, privilege, restriction, exemption, usage, practice, procedure, or other matter or thing *not* now existing or in force ;

and this Act shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's Dominions out of the United Kingdom, except where otherwise expressed in the said schedule.

Short title.

2. This Act may be cited as the Statute Law Revision Act, 1883.

SCHEDULE.

A description or citation of a portion of an Act is inclusive of the words, section, or other part, first or last mentioned, or otherwise referred to as forming the beginning, or as forming the end, of the portion comprised in the description or citation.

VICTORIA.

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| 32 & 33 Vict. c. 6. | An Act to repeal so much of the Regulation of Railways Act, 1868, as relates to the approval by meetings of incorporated Railway Companies of Bills and Certificates for conferring further powers on those Companies. |
| c. 18
in part. | An Act to amend the Lands Clauses Consolidation Act. — In part; namely,—Section 2. |
| c. 114
in part. | An Act to amend the Law relating to the Abandonment of Railways and the Dissolution of Railway Companies.—In part; namely,—Section 10. |

46 & 47 VICT. c. 39. ii.

33 & 34 Vict. c. 19. in part.	An Act to amend "The Railway Companies Powers Act, 1864," and "The Railway Construction Facilities Act, 1864."—In part; namely, — Section 2; Section 4, the third paragraph; Section 5, to "repealed, and".	46 & 47 Vict. CAP. 89.
34 & 35 Vict. c. 3. in part.	An Act to empower Committees on Bills confirming or giving effect to Provisional Orders to award Costs and examine Witnesses on Oath.—In part; namely,—Section 1.	
c. 78. in part.	An Act to amend the Law respecting the Inspection and Regulation of Railways — In part; namely, — Section 13, the last paragraph; Section 14, the last paragraph; Section 17; Schedule 2, the third column.	
36 & 37 Vict. c. 48. in part.	An Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1864, and for other purposes connected therewith. In part; namely, — Section 38.	
37 & 38 Vict. c. 40. in part.	<i>An Act the title of which begins with the words,—An Act to amend the powers of the Board of Trade,—and ends with the words,—reference of Differences to the Railway Commissioners in lieu of Arbitrators.—</i> In part; namely,—Section 5.	
38 & 39 Vict. c. 31.	An Act to make perpetual Section 4 of the Railway Companies Act, 1867, and Section 4 of the Railway Companies (Scotland) Act, 1867.	

EXPIRING LAWS CONTINUANCE ACT, 1883.

46 & 47 Vict. cap. 40. An Act to continue various expiring Laws. [25th August, 1883.]

WHEREAS the several Acts mentioned in column one of the schedule to this Act are, to the extent specified in column two of that schedule, limited to expire on the thirty-first day of December one thousand eight hundred and eighty-three :

And whereas it is expedient to provide for the continuance as in this Act mentioned of such Acts, and of the enactments amending the same :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title. 1. This Act may be cited as the Expiring Laws Continuance Act, 1883.

Continuance of Acts in schedule.

2. The Acts mentioned in column one of the schedule to the Act, in so far as they are temporary in their duration, shall, to the extent in column two of the said schedule mentioned, be continued until the thirty-first day of December one thousand eight hundred and eighty-four, and any enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like manner.

SCHEDULE.

1. Original Acts.	2. How far continued.	3. Amending Acts.
20 36 & 37 Vict. c. 48. Regulation of Railways.	The whole Act.	37 & 38 Vict. c. 40. (Part II.)

TRAMWAYS AND PUBLIC COMPANIES
(IRELAND) ACT, 1883.

46 & 47 Vict. cap. 43. An Act for promoting the extension of Tramway communication in Ireland, and for assisting Emigration, and for extending certain provisions of the Land Law (Ireland) Act, 1881, to the case of Public Companies. [25th August, 1883.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

11. The Lord Lieutenant in Council may by Provisional Order empower any railway company to contribute towards the cost of the construction of any tramway to be made under the powers of this Act such sum of money by way of loan, subscription for shares, or otherwise, as may be agreed upon between the railway company and the promoters of the tramway.

Power to railway companies to subscribe towards tramways under this Act.

Such Order in Council shall only be made where the railway company establishes, to the satisfaction of the Lord Lieutenant in Council, that a copy of the Provisional Order as applied for by the railway company has been submitted to the proprietors of the company, at a meeting held specially for that purpose, as if such Order were a Bill promoted in Parliament by the Company, and that all matters and things have been done and have happened, and all times have elapsed, which if such Order were a Bill so promoted as aforesaid should have been done and have happened and elapsed in order to constitute compliance with the Standing Orders of Parliament applicable to Bills promoted by railway companies for the like purposes to those referred to in this section.

Such Order in Council shall not take effect unless confirmed by Parliament if a petition against it is presented to the Lord Lieutenant in Council, and the petitioner appears and proceeds therewith.

TRAMWAYS AND PUBLIC COMPANIES (IRELAND) AMENDMENT ACT, 1884.

47 & 48 Vict. Cap. 28. An Act to amend the Tramways and Public Companies (Ireland) Act, 1883. [14th July, 1884.]

**48 & 47 Vict.
c. 43.**

WHEREAS divers presentments have been passed by the grand juries of several counties in Ireland approving of the making of certain light railways and tramways, and guaranteeing dividends upon the paid-up capital necessary for the said undertakings, as defined by the Tramways and Public Companies (Ireland) Act, 1883:

And whereas it appears from the schedules of applications, resolutions, and other records of the said grand juries what were the maximum sums upon which such dividends were intended to have been guaranteed, but such amounts have been by mistake omitted from several of such presentments, which by reason of such omission have been held to be invalid:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

**Power to
amend pre-
sentment.**

1. It shall be lawful for the several grand juries assembled at the summer assizes one thousand eight hundred and eighty-four to amend the presentments so passed in respect of and approving of the making of the several light railways and tramways respectively specified in the Schedule hereto by stating in such presentments respectively the respective amounts for which the same respectively were passed, and such presentments when amended shall be deemed to be presentments validly passed; and all proceedings before the Lord Lieutenant in Council or otherwise may be taken and carried on for the purpose of confirming the same and making Orders in Council founded thereon, as if the same had originally been valid presentments.

**Notice of
application.**

2. Notice of the intention to apply to any grand jury under this Act shall be given by inserting at least one advertisement in a newspaper circulating in the county to which such application shall relate, and by posting
47 & 48 Vict. c. 28. i.

copies of such advertisement in some public place in every market town in each barony affected by the proposed guarantee: Provided however, that such advertisement and posting may be inserted and made either before or after the passing of this Act.

47 & 48 VICT.
CAP. 28.

3. This Act may be cited as the Tramways and Public Companies (Ireland) Amendment Act, 1884.

Short title.

SCHEDULE.

1. A tramway and light railway from Skibbereen to Ballydehob and Schull.
2. A tramway and light railway from Ballinascorthy to Timoleague.
3. A tramway and light railway from Middleton to Ballinacarra and Cloyne.
4. A tramway and light railway from Cork to Blarney and Couchford.
5. A tramway and light railway from Mitchelstown to Fermoy.
6. A tramway and light railway from Athy (county Kildare) to Crettyard Bridge (Queen's County).

SUMMARY JURISDICTION ACT, 1884.

47 & 48 Vict. Cap. 43. An Act to repeal divers Enactments rendered unnecessary by the Summary Jurisdiction Acts and other Acts relating to proceedings before Courts of Summary Jurisdiction, and to make further provision for the uniformity of proceedings before those Courts.

[7th August, 1884.]

11 & 12 Vict. c. 43. WHEREAS the Summary Jurisdiction Acts regulate the
12 & 13 Vict. c. 45. procedure before courts of summary jurisdiction and
42 & 43 Vict. c. 49. on appeals from those courts to courts of quarter sessions, and it is expedient to provide for uniformity of procedure in all such cases :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Summary Jurisdiction Act, 1884.

Commencement of Act.

2. This Act shall come into operation on the first day of December, one thousand eight hundred and eighty-four.

Repeal of Acts in Schedule.

4. The Acts contained in the Schedule to this Act are hereby repealed to the extent in the third column of that Schedule mentioned.

Provided that—

(1.) Where an enactment extends beyond England that enactment shall be repealed only as regards England ; and

(2.) The expression in the said schedule "conviction or order of a court of summary jurisdiction" shall mean a conviction or order made in pursuance of the Summary Jurisdiction Acts ; and

(3.) This repeal shall not revive any enactment repealed by any of the repealed Acts, nor shall it affect—

(a.) Anything duly done or suffered before the commencement of this Act under any enactment hereby repealed ; or

47 & 48 VICT. c. 43. i.

(b.) Any legal proceeding or appeal commenced, or any writ, warrant, or instrument made or issued before the commencement of this Act ;

and any such legal proceeding, appeal, writ, warrant, and instrument may be carried on and executed as if this Act had not passed.

A reference in any Act of Parliament or other document to any enactment repealed by this Act, whether incorporating or applying such enactment or otherwise, shall be construed to refer to the corresponding enactment in the Summary Jurisdiction Acts, and so far as there is no such corresponding enactment shall be repealed.

SCHEDULE.

ENACTMENTS REPEALED.

This Schedule down to the year 1868 refers to the Statutes, Revised Edition, published by authority under the direction of the Statute Law Committee.

A description or citation of a portion of an Act in this Schedule is inclusive of the word, section, or other part first and last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion described in the description or citation.

Year & Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Vict. c. 97.	An Act for regulating railways.	Section 13, from "for such period" to end of section. Section 16, from "for any term" to end of section.
8 & 9 Vict. c. 16.	The Companies Clauses Consolidation Act, 1845.	Section 147, from "and on complaint" to end of section. Sections 148 and 149. Section 153. Section 155, so far as relates to any matter to which the Summary Jurisdiction Acts apply. Section 157. Section 159, from "for the county" to the end of the section; and Schedule G.

47 & 48 VICT.
CAP. 43.

Year & Chapter.	Title or Short Title.	Extent of Appeal.
8 & 9 Vict. c. 18.	The Lands Clauses Consolidation Act 1845.	Section 136, from "and on complaint" to end of section. Section 137. Section 142. Section 143, so far as relates to any matter to which the Summary Jurisdiction Acts apply. Section 144. Section 146, from "for the county" to end of section, and Schedule C.
8 & 9 Vict. c. 20.	The Railways Clauses Consolidation Act, 1845.	Section 145, from "and on complaint" to end of section. Sections 146 and 147. Section 151. Section 153, so far as relates to any matter to which the Summary Jurisdiction Acts apply. Section 155. Section 157, from "for the county" to end of section; and Schedule.
35 & 36 Vict. c. 50.	The Railway Rolling Stock Protection Act, 1872.	Section 6, from "for the county" to end of section.
41 & 42 Vict. c. 74.	The Contagious Diseases (Animals) Act, 1878.	Section 64, from "for the county" to end of section; and section 66, sub-section 3.

EXPIRING LAWS CONTINUANCE ACT, 1884.

47 & 48 Vict. cap. 53. An Act to continue various expiring Laws. [7th August, 1884.]

WHEREAS the several Acts mentioned in column one of the Schedule to this Act are, to the extent specified in column two of that Schedule, limited to expire on the thirty-first day of December, one thousand eight hundred and eighty-four :

And whereas it is expedient to provide for the continuance as in this Act mentioned of such Acts, and of the enactments amending the same :

Be it therefore enacted by the Queen's most Excellent Majesty by and with the consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Expiring Laws Short title. Continuance Act, 1884.

2. The Acts mentioned in column one of the Schedule to this Act, in so far as they are temporary in their duration, shall to the extent in column two of the said Schedule mentioned, be continued until the thirty-first day of December, one thousand eight hundred and eighty-five, and any unrepealed enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like manner.

SCHEDULE.

1. Original Acts.	2. How far continued.	3. Amending Acts.
36 & 37 Vict. c. 48. Re- gulation of Railways.	The whole Act.	37 & 38 Vict. c. 40. (Part II.)

REVENUE ACT, 1884.

47 & 48 Vict. cap. 62. An Act to amend the Law relating to the Customs and Inland Revenue and to the Audit of Public Accounts, and for other purposes connected with the public Revenue and Expenditure. [14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty by and with the consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

Licences for the sale of tobacco in railway carriages.

1. This Act may be cited as the Revenue Act, 1884.

12.—(1.) It shall be lawful for any railway Company (including in such term any person or persons who is or are proprietor or proprietors of a railway or of carriages used for the conveyance of passengers upon a railway) to make application to the Commissioners of Inland Revenue for the grant of a licence or licences for the dealing in and sale of tobacco and snuff by any means, personal, mechanical, or otherwise, in any railway carriage of which such company are proprietors.

(2.) Such application shall be made upon a form to be provided by the Commissioners and containing such particulars as they may prescribe.

(3.) The licence shall be granted by the Commissioners upon payment in respect of each carriage of the excise duty of five shillings and threepence and shall expire on the fifth day of July after the date thereof.

(4.) All the enactments relating to the dealing in and sale of tobacco and snuff and excise licences shall be applicable to such carriages and licences, and every carriage in respect of which a licence is granted shall be deemed to be "premises" of a dealer in and seller of tobacco within the meaning of the enactments relating to the dealing in and sale of tobacco and snuff.

(5.) If any railway company shall deal in or sell tobacco or snuff, or suffer tobacco or snuff to be dealt in or sold in any railway carriage without having in force a licence authorizing the company so to do, such company shall incur a fine of fifty pounds, and if in any proceedings for the recovery of such fine any question shall arise as to the proprietorship of any railway carriage the proof of proprietorship shall lie upon the defendant.

47 & 48 VICT. c. 62. i.

POST OFFICE (PROTECTION) ACT, 1884.

47 & 48 Vict. cap. 76. An Act to amend the Law with respect to the Protection of the Post Office and to Offences committed in relation to the Post Office. [14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Post Office (Protection) Act, 1884. Short titles

This Act and the Post Office (Offences) Act, 1837, may be cited together as the Post Office (Offences) Acts, 1837 and 1884, and this Act and the Post Office (Management) Acts, 1837 to 1884, may be cited together as the Post Office (Management) Acts, 1837 to 1884. 7 Will. 4 and
1 Vict. c. 36.
44 & 45 Vict.
c. 20.

This Act shall be deemed to be a Post Office Act within the meaning of the Post Office (Offences) Act, 1837. 7 Will. 4 and
1 Vict. c. 36.

2. This Act shall come into operation on the first day of September, one thousand eight hundred and eighty-four (which day is in this Act referred to as the commencement of this Act.) Commence-
ment of Act.

Protection of Post Offices, Postal Packets, and Stamps.

3. A person shall not place or attempt to place in or against any post office letter box any fire, any match, any light, any explosive substance, any dangerous substance, any filth, any noxious or deleterious substance, or any fluid, and shall not commit a nuisance in or against any post office letter box, and shall not do or attempt to do anything likely to injure the box, appurtenances, or contents. Prohibition
of placing
injurious
substances
in or
against
post office
letter boxes.

Any person who acts in contravention of this section shall be guilty of a misdemeanor, and be liable, on summary conviction, to a fine not exceeding ten pounds, and on conviction on indictment, to imprisonment, with or without hard labour, for a period not exceeding twelve months.

47 & 48 VICT. c. 76. i.

47 & 48 VICT.
CAP. 76.

Prohibition
of sending
by post
explosive,
inflam-
mable, or
deleterious
substances,
or indecent
prints,
words, &c.
Sec 3 & 4
Vict. c. 96.
s. 62.

4. (1.) A person shall not send or attempt to send a postal packet which either—

- (a.) Encloses any explosive substance, any dangerous substance, any filth, any noxious or deleterious substance, any sharp instrument not properly protected, any living creature which is either noxious or likely to injure other postal packets in course of conveyance or an officer of the post office, or any article, or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the Post Office ; or
- (b.) Encloses any indecent or obscene print, painting, photograph, lithograph, engraving, book or card, or any indecent or obscene article, whether similar to the above or not ; or
- (c.) Has on such packet, or on the cover thereof, any words, marks, or designs of an indecent, obscene, or grossly offensive character.

(2.) Any person who acts in contravention of this section shall be guilty of a misdemeanor, and shall be liable, on summary conviction, to a fine not exceeding ten pounds, and on conviction on indictment, to imprisonment with or without hard labour for a period not exceeding twelve months.

(3.) The detention in the post office of any postal packet on the ground of its being in contravention of this section, shall not exempt the sender thereof from any proceedings which might have been taken if the same had been delivered in due course of post.

Prohibition
of affixing
placards,
notices, &c.
on post
office or
letter box,
&c.

41 & 42 Vict.
c. 26. s. 9.

5.—(1.) A person shall not, without due authority, affix or attempt to affix any placard, advertisement, notice, list, document, board, or thing on, or paint or tar any post office, post office letter box, telegraph post, or other property belonging to or used by or on behalf of the Postmaster General, and shall not in any way disfigure any such office, box, post, or property ; and, notwithstanding anything in section nine of the Parliamentary and Municipal Registration Act, 1878, a notice or list referred to in that section shall not be affixed in or on any post office or any such property without authority from the Postmaster General ; and where the Postmaster General is of opinion that any such notice or list cannot be so affixed without obstruction or inconvenience to the business of the post office, he may refuse such authority.

(2.) A person who acts in contravention of this
47 & 48 VICT. C. 76. i

section shall be liable on summary conviction to a fine not exceeding forty shillings. 47 & 48 VICT. C.A.P. 76.

6.—(1.) A person shall not, without due authority,—

(a.) Make, issue, or send by post or otherwise any envelope, wrapper, card, form, or paper in imitation of one issued by or under the authority of the Postmaster General, or of any foreign or colonial postal authority, or having thereon any words, letters, or marks which signify or imply or may reasonably lead the recipient to believe that a post letter bearing the same is sent on Her Majesty's service; or

Prohibition of imitation of post office stamps, envelopes, forms and marks.

(b.) Make on any envelope, wrapper, card, form, or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of any post office under the Postmaster General, or under any foreign or colonial postal authority, or any words, letters, or marks which signify or imply or may reasonably lead the recipient thereof to believe that a post letter bearing the same is sent on Her Majesty's service; or

(c.) Issue or send by post or otherwise any envelope, wrapper, card, form, or paper so marked.

(2.) A person who acts in contravention of this section shall be liable on summary conviction to a fine not exceeding forty shillings.

7. A person shall not—

(a.) Make, knowingly utter, deal in or sell any fictitious stamp, or knowingly use for any postal purpose any fictitious stamp; or

Prohibition of fictitious stamps.

(b.) Have in his possession, unless he shows a lawful excuse, any fictitious stamp; or

(c.) Make, or, unless he shows a lawful excuse, have in his possession, any die, plate, instrument, or materials for making any fictitious stamp.

Any person who acts in contravention of this section shall be liable on summary conviction on a prosecution by order of the Commissioners of Inland Revenue to a fine not exceeding twenty pounds, subject to the like right of appeal as in the case of a penalty under the Acts relating to the excise.

Any stamp, die, plate, instrument, or materials found in the possession of any person in contravention of this section, may be seized and shall be forfeited.

For the purposes of this section "fictitious stamp" 47 & 48 VICT. C. 76. iii.

47 & 48 VICT. CAP. 76. means any facsimile or imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage, including any stamp for denoting a rate of postage of any of Her Majesty's colonies or of any foreign country.

Prohibition of false notice as to reception of letters.

8. (1.) A person shall not, without authority from the Postmaster General, place and maintain in or on any house, wall, door, window, box, post, pillar, or other place belonging to him or under his control any of the words, letters, or marks following; (that is to say,)

(a.) The words "post office," or "postal telegraph office;" or

(b.) The words "letter box," accompanied with words, letters, or marks which signify or imply or may reasonably lead the public to believe that it is a post office letter box; or

(c.) Any words, letters, or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office, or that any box is a post office letter box,

and a person, when required by a notice given by the Postmaster General to remove or efface any such words, letters or marks as aforesaid, or to remove or effectually close up any letter box belonging to him or under his control which has been a post office letter box, shall comply with such request.

(2.) Any person who acts in contravention of this section shall be liable on summary conviction to a fine not exceeding forty shillings, and if the offence is continued after a previous conviction, to a fine not exceeding five shillings for every day during which the offence so continues.

Officers of Post Office.

Commission of offences in post office, and obstruction of officers of post office.

9. (1.) Any person who wilfully obstructs, or incites anyone to obstruct, an officer of the post office in the execution of his duty, or who whilst in any post office, or within any premises belonging to any post office, or used therewith, obstructs the course of business of the post office, shall be liable on summary conviction to a fine not exceeding forty shillings.

(2.) Any officer of the post office may require any person guilty of an offence under this section to leave a post office or any such premises as aforesaid, and if such person refuses or fails to comply with such request, such person shall be liable to a further fine not exceeding five pounds, and may be removed by any

47 & 48 VICT. c. 76. iv.

officer of the post office, and all constables are required ^{47 & 48 VICT. CAP. 76.} on demand to remove or assist in removing every such person.

10. Where an officer of the post office vacates his office (whether by reason of dismissal, resignation, death, or otherwise) he, or if he is dead his personal representative, or the person acting as his personal representative, shall deliver to such superior officer of the post office as may for the time being be directed by or in pursuance of the regulations of the Postmaster General, all articles (whether accoutrements, appointments, or other necessities) which have been issued to the said officer vacating his office for the execution of his duty, and are not, under the regulations of the Postmaster General, the property of such officer, and shall deliver the same up at the time and place fixed by the superior officer to whom they are to be delivered, and shall deliver the same in good order and condition, fair wear and tear only excepted.

Surrender of clothing by officer of post office, on ceasing to be officer.

Any person who fails to comply with the provisions of this section shall be liable on summary conviction to pay a fine not exceeding forty shillings, and also such further sum not exceeding forty shillings as the court may determine to be the value of the articles not delivered, or, if the same have been delivered, but not in good order and condition, of the damage done to such articles.

Any justice of the peace may issue a warrant by virtue of which a constable may search for and seize any articles not delivered as required by this section, in like manner in all respects as if they were stolen goods and the warrant were a warrant to search for stolen goods.

Telegrams.

11. Every person who forges or wilfully and without due authority alters a telegram or utters a telegram knowing the same to be forged or wilfully and without due authority altered, or who transmits by telegraph as a telegram, or utters as a telegram, any message or communication which he knows to be not a telegram, shall, whether he had or had not an intent to defraud, be guilty of a misdemeanor, and shall be liable, on summary conviction, to a fine not exceeding ten pounds, and, on conviction on indictment, to imprisonment with or without hard labour for a period not exceeding twelve months.

Forgery and improper disclosure of telegrams.

If any person, being in the employment of a telegraph company as defined by this section—

47 & 48 VICT. c. 76. v.

47 & 48 VICT.
CAP. 76.



Improperly divulges to any person the purport of any telegram; such person shall be guilty of a misdemeanor and be liable, on summary conviction, to a fine not exceeding twenty pounds, and on conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding one year, or to a fine not exceeding two hundred pounds.

For the purposes of this section the expression "telegram" means a written or printed message or communication sent to or delivered at a post office, or the office of a telegraph company, for transmission by telegraph, or delivered by the post office or a telegraph company as a message or communication transmitted by telegraph.

The expression "telegraph company" means any company, corporation, or persons carrying on the business of sending telegrams for the public under whatever authority or in whatever manner such company, corporation, or persons may act or be constituted.

The expression "telegraph" has the same meaning as in "the Telegraph Act, 1869," and the Acts amending the same.

Miscellaneous Amendments as to Offences.

Recovery of
fines.

12.—(1.) All offences under this Act which are punishable on summary conviction may be prosecuted, and fines under this Act which are recoverable on summary conviction may be recovered,

42 & 43 VICT.
c. 49.

(a.) In England in manner provided by the Summary Jurisdiction (English) Acts; and

27 & 28 VICT.
c. 53.

(b.) In Scotland before the sheriff or sheriff substitute in manner provided by the Summary Jurisdiction (Scotland) Acts, 1864 and 1881,

44 & 45 VICT.
c. 33.

and all necessary jurisdiction is hereby conferred on such sheriff and sheriff substitute; and

(c.) In Ireland within the police district of Dublin metropolis, in manner provided by the Acts regulating the powers and duties of justices of the peace for such district or of the police of such district, and elsewhere in Ireland in manner provided by the Petty Sessions (Ireland) Act, 1851, and any Act amending the same; and

14 & 15 VICT.
c. 93.

(d.) In the Isle of Man before a high bailiff or two justices of the peace at the instance of an officer of the post office or of a constable in

47 & 48 VICT. c. 76. vi.

accordance with the law for the time being in force for regulating the exercise of summary jurisdiction by such bailiffs or justices ; and

47 & 48 VICT.
CAP. 76.

- (c.) In the Channel Islands, or elsewhere than in the United Kingdom or the Isle of Man, before the court and in the manner provided by law, and if no provision is otherwise made by law, then at the instance of any officer of the post office before the court and in the manner before and in which the like offences and fines can be prosecuted and recovered.

(2.) In Scotland offences and fines which may be prosecuted and recovered on summary conviction in pursuance of this Act may be prosecuted and recovered, and proceedings may be taken at the instance of the procurator fiscal of the court as part of his official duty, or of any person on that behalf authorised by the Postmaster General.

(3.) Every offence under the Post Office Acts which is punishable with a pecuniary penalty or forfeiture of any sum not exceeding twenty pounds, whether with or without full costs of suit and expenses may be prosecuted, and such penalty, forfeiture, costs, and expenses may be recovered and the payment thereof enforced in manner in this section mentioned with respect to offences and fines under this Act.

(4.) Any offence punishable on indictment under this Act, whether it is or not also punishable on summary conviction, shall be deemed to be an indictable offence under the post office laws within the meaning of the First Schedule to the Summary Jurisdiction Act, 1879, and the Schedule to the Summary Jurisdiction over Children (Ireland) Act, 1884.

43 & 43 VICT.
C. 40.
47 & 48 VICT.
C. 10.

(5.) On the prosecution of any offence under the Post Office Acts, whether on summary conviction or on indictment, evidence that any article is in the course of transmission by post or has been accepted on behalf of the Postmaster General for transmission by post shall be sufficient evidence that such article is a postal packet.

13. The court in England before whom a person is convicted on summary conviction of an offence under any of the Post Office Acts shall have the same power as a court of summary jurisdiction has in England under section four of the Summary Jurisdiction Act, 1879 (which relates to the mitigation of punishment.)

Power to
mitigate
punishment
43 & 43 VICT.
C. 40. s. 4.

The court before whom a person is convicted on indictment of an offence under any enactment of the 47 & 48 VICT. c. 76. vii.

47 & 49 Vict.
c. & p. 76.

Post Office Acts may mitigate the punishment fixed by such enactment for the offence as follows; that is to say, where the punishment mentioned in the enactment is or may be transportation the court shall award in lieu of it either penal servitude for any period not exceeding the period of transportation fixed by such enactment, and not less than the minimum period of penal servitude for the time being allowed by law, or imprisonment with or without hard labour for a term not exceeding two years.

Application
of fines.

14. All pecuniary penalties, forfeitures, fines, and other sums recovered in respect of an offence under the Post Office Acts shall, notwithstanding anything in any other Act, be paid into the Exchequer in such manner as the Treasury from time to time direct.

Supplemental.

Execution
of instru-
ments of
the Post-
master
General.

15. Any instrument requiring to be executed by the Postmaster General, or to which he is a party, may be executed by any of the secretaries of the Post Office in the name of the Postmaster General, and, if so executed, shall be deemed to have been executed by the Postmaster General, and shall have effect accordingly.

Any instrument purporting to be executed by any of the secretaries of the Post Office in the name of the Postmaster General shall, until the contrary is proved, be deemed to have been so executed without proof of the official character of the person appearing to have executed the same.

Saving
clause as to
liability.

16. This Act shall not exempt any person from any proceeding by indictment or otherwise for an offence which is punishable at common law, or under any Act other than this Act, so that no person be tried or punished twice for the same offence.

When proceedings are taken before any court against a person in respect of an offence under this Act, which is also an offence punishable at common law, or under some Act other than this Act, the court may direct that instead of such proceedings being continued proceedings shall be taken for punishing such person at common law, or under some Act other than this Act.

Substitu-
tion of 32 &
33 Vict. c. 18
s. 1. in 41
42 Vict.
c. 76, for 31
& 32 Vict.
c. 119.
s. 33.

17. Whereas by sections four and five of the Telegraph Act, 1878, section thirty-three of the Regulation of Railways Act, 1868, is, together with other sections of that Act, applied to the differences therein mentioned:

And whereas the said section thirty-three was repealed, and another section in lieu thereof enacted by 47 & 48 Vict. c. 76. viii.

the Lands Clauses Consolidation Act, 1869, and it is expedient to substitute a reference to the last-mentioned section for the reference to the repealed section : Be it therefore enacted as follows :

47 & 48 VICT.
CAP. 76.

Any reference in the Telegraph Act, 1878, to section thirty-three of the Regulation of Railways Act, 1868, shall be construed to refer to section one of the Lands Clauses Consolidation Act, 1869.

18. This Act shall extend to the Isle of Man and to the Channel Islands, and the Royal Courts of the Channel Islands shall register the same accordingly.

Extent of
Act.

19. (1.) In this Act and in the Post Office (Offences) Act, 1837, and in any enactments incorporating or referring to that Act, or to be construed as one therewith, the following expressions shall, unless the context otherwise requires, have the meanings assigned to them by this section ; (that is to say) :

Definitions
for the pur-
poses of
7 W. 4. and
1 Vict. c. 36.

The expression "post letter" shall mean a postal packet, as defined by this Act, from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed, and a delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post shall be a delivery to the post office, and a delivery at the house or office of the person to whom the postal packet is addressed, or to him or to his servant or agent, or other person considered to be authorised to receive the postal packet according to the usual manner of delivering that person's postal packets, shall be a delivery to the person addressed.

The expression "post office" shall mean any house, building, room, carriage, or place where postal packets, as defined by this Act, or any of them, are by the permission or under the authority of the Postmaster General, received, delivered, sorted, or made up, or from which such packets, or any of them, are by the authority of the Postmaster General despatched, and shall include any post office letter box.

The expression "post office letter box" shall include any pillar box, wall box, or other box or receptacle provided by the permission, or under the authority of the Postmaster General for the purpose of receiving postal packets, or any of them, for transmission by or under the authority of the Postmaster General.

(2.) Where it appears to the Postmaster General that any post office letter box, by reason of being on the premises of any private person or otherwise, is so situate as not to afford the same security against the im-

47 & 48 VICT. C. 76. ix.

47 & 48 Vict.
CAP. 76.

proper removal of postal packets therefrom or other fraud as exists in the case of other post office letter boxes, he may declare that the same shall be a private posting box, and shall affix upon or near such box a notice of its being and of the effect of its being a private posting box, and a postal packet put into that box shall not for the purpose of any enactment, law, or contract whereby the due posting of a postal packet is evidence of the receipt thereof by the addressee be deemed to have been duly posted.

A certificate purporting to be signed by the Postmaster General or any secretary or assistant secretary of the post office and to the effect that any box or receptacle is or was provided by the permission or under the authority of the Postmaster General for the purpose of receiving postal packets, or any of them, shall in any legal proceeding be evidence of the facts stated in the certificate.

Definitions.

20. In this Act, unless the context otherwise requires,—
The expression “the Treasury” means the Commissioners of Her Majesty’s Treasury.

38 & 39 Vict.
c. 22, s. 10.

The expression “postal packet” has the same meaning as in the Post Office Act, 1875, as amended by this Act, inclusive of such postal packets as are defined by regulations of the Treasury to be parcels, and includes a telegram.

32 & 33 Vict.
c. 73.

The expression “telegraph post” means a post, pole, standard, stay, strut, or other above-ground contrivance for carrying, suspending or supporting a telegraph as defined by the Telegraph Act, 1869.

The expression “indictment” includes an information, and in the case of Scotland criminal letters.

The expression “misdemeanor” means as regards Scotland and the Channel Islands a crime and offence.

7 Will. 4 and
1 Vict. c. 38.

Other expressions shall have the same meaning as in the Post Office (Offences) Act, 1837.

Repeal.

21. The Acts mentioned in the Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent in the third column of that Schedule mentioned. Provided that this repeal shall not affect—

(1.) Anything done or suffered before the commencement of this Act: or

(2.) Any legal proceeding, warrant, or other thing commenced, issued, or done before the commencement of this Act in pursuance of any enactment hereby repealed,

and any such legal proceeding, warrant, or thing, may be carried on, executed, and completed, as if this Act had not passed.

47 & 48 VICT. c. 76. x.

SCHEDULE.

47 & 48 VICT.
CAP. 76.

A description or citation of a portion of an Act in this Schedule is inclusive of the words, section, or other part first and last-mentioned or otherwise referred to as forming the beginning or as forming the end of the portion described in the description or citation.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
7 Will. 4 and 1 Vict.c.36.	Post Office(Offences) Act, 1837.	<p>Section 5.</p> <p>Section 13, from "and any such justice shall" to "shall be sooner paid," and from "for the county or place" to the end of the section.</p> <p>Section 14.</p> <p>Section 15.</p> <p>Section 16.</p> <p>Section 17.</p> <p>Section 19.</p> <p>Section 20.</p> <p>Section 21.</p> <p>Section 22.</p> <p>Section 32.</p> <p>Section 41 from "not less than seven" to "four years" and from "nor less than seven years," to the end of the section.</p> <p>Section 42 from "and may also direct" to the end of the section.</p> <p>Section 43 from "and on due proof being made" to "shall be satisfied."</p> <p>Section 45, so far as relates to any proceeding before a court of summary jurisdiction in England.</p> <p>Section 47 from "and the term post letter shall mean" down to "sorted, made up, or despatched."</p>

47 & 48 VICT.
CAP. 70.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Vict. c. 96.	Post Office (Duties) Act, 1840.	Section 22 from "not less than seven years" to the end of the section. Section 29 the words "not less than two years." Section 30 the words "nor less than six calendar months." Section 62.
38 & 39 Vict. c. 22.	The Post Office Act, 1875.	Section 10, from "every postal packet shall" to the end of the section.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	Section 53, from "every offence under the statutes" down to "provided by the Summary Jurisdiction Acts."
44 & 45 Vict. c. 20.	The Post Office (Land) Act, 1881.	Section 7.
44 & 45 Vict. c. 33.	The Summary Jurisdiction (Scotland) Act, 1881.	Section 11, from "every offence under the statutes" down to "provided by the Summary Jurisdiction Acts."

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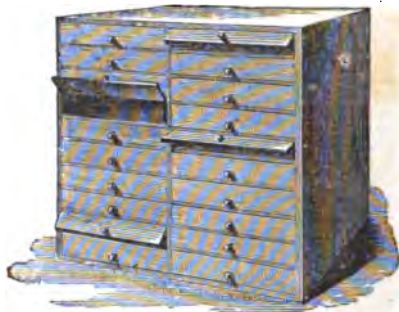
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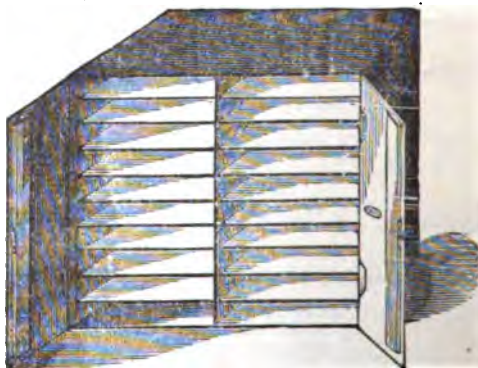
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